



AGENDA - TROY PLANNING COMMISSION MEETING
WEDNESDAY, JUNE 22, 2022, 3:30 P.M.
CITY HALL, COUNCIL CHAMBERS

1. Roll Call
2. Minutes - June 8, 2022
3. Historic District Application, 101 Public Square NW, for exterior painting and building sign.
Owner/Applicant: Bakers Locksmith, Kyle Baker
-Commission to make decision.
4. Rezoning of Sheridan Annexation, property at 1525 Troy-Sidney Road, from the County zoning of R-1AAA, One-Family Residential, to the City zoning of R-4, Single-Family Residential District. This is to apply a City zoning to a recently annexed property.
Owner/Applicant: Edward & Paula Sheridan
-Commission to determine whether or not to hold a public hearing
-Commission to make a recommendation to Troy City Council
5. Dedication of Right-of-Way along Barnhart Road and Fenner Road - 1.021 acres of IL 10853.
Owner/Applicant: Momentum Center Park - Section One; Board of Miami County Commissioners
-Commission to provide a recommendation to Troy City Council
6. Proposed Amendment to the Zoning Code related to the Historic Preservation Overlay District
 - A. Public Hearing
 - B. Provide a recommendation to Troy City Council
7. Other

Note Next Meeting -- July 13, 2022

Note to Commission members:
If you will not be attending, please email or call Sue.

A regular meeting of the Troy Planning Commission was held in Council Chambers, City Hall on Wednesday, June 8, 2022, at 3:30 PM with Chairman Alan Kappers presiding. ATTENDING: Members – Wolke, Kappers, McGarry, Ehrlich; Zoning Inspectors Long and Bruner; and Development Director Davis.

APPROVAL OF MINUTES: Upon motion of Mr. Wolke, seconded by Mrs. Ehrlich, the minutes of the May 25, 2022 meeting were approved as amended by unanimous roll call vote.

HISTORIC DISTRICT APPLICATION, 201 E WATER STREET, OVERFIELD TAVERN, EXTERIOR ALTERATION/REPAIRS: REMOVAL AND REPLACEMENT OF 8 LOGS ON THE SECOND STORY; "DUTCHMAN REPAIRS" OF SEVERAL LOGS ON THE FIRST STORY. Staff reported: the hand-hewn log cabin built in 1808; it had been used as a tavern, courthouse, Masonic lodge, and now a museum; building is on the National Register of Historic Places, and has been recognized as an Ohio Historic Landmark. The report further noted:

"between 1895 and 2000, the Overfield Tavern underwent major restorations, which includes the installation of poplar siding that was subsequently painted red, and the painting of hewn logs with white latex paint, along with several interior modifications. The Overfield Tavern Museum conducted an Architectural Assessment Report in 2019. The assessment report identified an accelerated rate of deterioration of the poplar siding located on the west elevation (S. Mulberry Street). Continued exposure of the hewn logs located on the south and east elevation has led to extensive dry rot, that has made the building susceptible to insect damage and birds. Phase one of the revitalization efforts have been completed with the replacement of the wood shingled roof to an imitation wood shingle known as Enviroshake that was previously approved by the Planning Commission in February of 2020.

On the August 25, 2021 Planning Commission Meeting, the applicant requested the review of the temporary exterior alterations to the building that included the removal of the poplar siding on the west façade along S. Mulberry Street and partial removal of the white latex paint on the front façade (Water Street) and east façades. The request was made to provide more accessibility to the structural engineer for a full inspection known as Phase 2a of the project. The request was approved with the following conditions:

- Overfield Tavern Museum will provide an update of the findings from the structural engineer by December 21st, 2021.
- This approval is not permitting the final design or material replacement of any elements of the building, rather to provide access for the structural engineer to conduct a complete structural inspection.
- The removal of the white latex paint is conducted using the gentlest method possible, following the Secretary of Interior Standards for the Treatment of Historic Properties.

In October 2021, Midwest Maintenance Inc. removed the existing new-growth poplar siding on the west elevation facing Mulberry Street and the coating of white latex paint on the south elevation facing Water street, revealing the extent of the damage to the log walls. The structural engineer assessed the extent of the damage identifying which logs will need repaired or replaced.

The west elevation logs that were protected by the wood siding are in relatively good condition with minimal repairs needed. The south and east elevations that were covered in latex paint need substantial repairs, including replacement logs.

At the April 13, 2022 Planning Commission meeting, the Planning Commission approved the request for removal and replacement of the second story ledge log and first-story sill logs, exterior repair and replacement logs, and foundation repairs on the south elevation (facing Water Street) with the following conditions:

1. The exterior repairs and foundation work are reviewed and approved by the Miami County Department of Development.
2. The chinking and daubing mortar repairs and replacement will include historically appropriate mixtures;
3. The Sidewalk replacement will be in accordance with the Engineering Department Construction standards, following a final inspection of the concrete work."

Chris Manning, Executive Director of the Overfield Tavern, is requesting the Planning Commission to consider the exterior alterations/repair of the Overfield Tavern east elevation. The request is for the removal and replacement of eight (8) logs on the second story and dutchman repairs of several logs on the first story.

The replacement logs will consist of old-growth oak and poplar beams recovered from historic barns in the region. These logs will be of the same species as existing and properly seasoned on site prior to installation. Additionally, the logs will be hand-hewn and over 100 years old as they have superior quality and durability over modern farm-raised wood and represent similar tooling techniques as the existing logs. The logs will be rechinked and daubed with an appropriate mortar mix. The "dutchman repairs" also known as "piecing-in" are also being requested. This technique involves the cutting of rotten areas of the wood and stabilization of the adjacent logs, ultimately installing replacement seasoned wood with the similar grain style. These techniques are in conformance with the Secretary of Interior Standards for the Treatment of Historic Properties and the National Park Service Preservation Brief: "The Preservation and Repair of Historic Log Buildings".

The west elevation repairs (facing Mulberry Street) will occur at a later date and will be brought before the Planning Commission. Staff recommended approval of the application with the following conditions:

1. Exterior repairs are reviewed and approved by the Miami County Department of Development.
2. Chinking and daubing mortar repairs and replacement will include historically appropriate mixtures."

A motion was made by Mrs. Ehrlich, seconded by Mr. Wolke, to approve the application for 201 E. Water Street as submitted for the exterior alteration/repairs of removal and replacement of 8 logs on the second story; "dutchman repairs" of several logs on the first story with the conditions as recommended by staff that:

1. Exterior repairs are reviewed and approved by the Miami County Department of Development.
2. Chinking and daubing mortar repairs and replacement will include historically appropriate mixtures.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION FOR THE CAROLINE, 5 S. MARKET STREET, FOR REPLACEMENT OF TEN WINDOWS ON THE GROUND FLOOR: OWNER-APPLICANT STEVEN SMITH. Staff reported: property is zoned B-3, Central Business District; building was constructed by W.H.H. Dye in 1871; property is on the National Register of Historic Places; on July 25, 2018, the Planning Commission unanimously approved the request to replace 20 third floor windows with a Windsor Window, Pinnacle Clad Direct Glaze Rectangle with 2" simulated checkrail and 7/8" tall putty SDL 3W3H above and below, measuring at 138 3/8" by 32 1/4" in the color of "Sandstone"; this request is for replacement of ten windows on the first floor with the same manufacturing and design as the previously approved third floor windows; the proposed window design is the Mueller Roofing Distributors "Pinnacle Clad Sandstone 7/8" Standard WDL with Inner Bar"; while this does not follow the Secretary of Interior Guidelines, Planning Commission previously approved matching windows on the third floor of this building; the applicant wishes to balance the first-floor windows with the previously approved third floor windows; and staff recommends approval of the ten (10) first-floor windows with the conditions the replacement will match the design and detail of the third-floor windows and a model window is provided at the meeting.

The applicant was present and provided a model of the window requested. Mr. Smith commented that he plans to request the update to windows on the second floor in the next 3-5 years and advised the Commission that the proposed windows for this application will mirror the look of the windows previously approved, and that the second floor windows will also mirror that same look.

A motion was made by Mr. Wolke, seconded by Mr. McGarry, that the Troy Planning Commission approve the application for the first floor window replacement at 5 S. Market Street based on the application submitted and the window sample shown to the Commission.

MOTION PASSED, UNANIMOUS VOTE

REZONING OF CANFERELLI ANNEXATION, A 2.0 ACRE PARCEL AT 1322 WASHINGTON ROAD, FROM THE COUNTY ZONING OF R-1AAA TO THE CITY ZONING OF R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT. THIS IS TO APPLY A CITY ZONING TO A RECENTLY ANNEXED PROPERTY. OWNER/APPLICANT: NICHOLAS N. CANFERELLI. Staff reported: staff recommends that the recently annexed parcel, Inlot 11514, Parcel ID: D08-107130, be zoned R-3 Single-Family Residential District; the surrounding zoning districts include County zoning of R-1AAA One-Family Residential to the north, County zoning of A-2, General Agriculture to the south and west, and City zoning of R-3 Single-Family to the east. The staff report further noted:

"The Zoning Code describes the proposed R-3 Single-Family Residential District as "designed to accommodate single-family dwellings on lots with areas of at least fifteen thousand (15,000) square feet per dwelling unit. This district will be mapped to protect areas that now meet these minimum lot sizes and for comparable areas which will develop in the future. The Comprehensive Plan describes the R-3 District as low to medium density. The Comprehensive Plan for future land use map identifies this property as future residential. The majority of the adjacent property in this area is currently zoned County Zoning of A-2 General Agriculture but the adjoining City zoning of R-3 Single-Family Residential district exists to the east.

In reviewing a rezoning proposal, Section 1139.07 outlines the criteria on which to base decisions:

(A) Whether the change in classification would be consistent with the Intent and purpose of this Zoning Code.

The proposed rezoning is consistent with the Zoning Code. Section 1131.02(o) & (r) state the purposes of the Zoning Code are to preserve and enhance property value, and direct particular land uses to the parcel of land best suited for them. The proposed rezoning request achieves these purposes.

(B) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions. The rezoning is necessary due to the annexation. The proposed use will not have any adverse effects in the area and is similar to the residential uses that currently exist in the surrounding area.

(C) Whether the uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

The proposed use is compatible and similar to the residential uses that currently exist in the surrounding area.

(D) Whether adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

Adequate utilities can be provided for the site if it is rezoned.

(E) The amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, in any, that make a substantial part of such vacant land unavailable for development.

In the vicinity of these subject properties, there is no available vacant land inside the city limits with the R-3 Single-Family Residential zoning classification that is suitable for development.

(F) Whether the proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

Not applicable in this request.

Staff did not recommend a public hearing as Council is required to hold a hearing and staff recommended that the parcel be rezoned from the County Zoning of R-1AAA One-Family to City Zoning of R-3 Single-Family Residential, based on the following:

- o The property is currently being utilized as residential use;
- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code;
- o The proposed rezoning is consistent with the surrounding zoning districts;
- o The proposed rezoning is consistent with the City of Troy Comprehensive Plan

PUBLIC HEARING:

A motion was made by Mrs. Ehrlich, seconded by Mr. McGarry, that the Planning Commission not hold a public hearing on the rezoning request.

MOTION PASSED, UNANIMOUS ROLL CALL VOTE

RECOMMENDATION TO COUNCIL:

A motion was made by Mr. Wolke, seconded by Mrs. Ehrlich, that the Troy Planning Commission recommends to Troy City Council that the property known as the Canferelli Annexation, Inlot 11514, Parcel ID: D08-107130, be rezoned from the County Zoning of R-1AAA to the City zoning of R-3, Single-family Residential District, based on the findings of staff that:

- o The property is currently being utilized as residential use;
- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code;
- o The proposed rezoning is consistent with the surrounding zoning districts;
- o The proposed rezoning is consistent with the City of Troy Comprehensive Plan.

MOTION PASSED, UNANIMOUS ROLL CALL VOTE

DEDICATION OF 0.330 OF RIGHT-OF-WAY OF INLOT 7392 AT THE INTERSECTION OF S. DORSET ROAD AND ARTHUR ROAD; OWNER/APPLICANT: GREENVILLE FEDERAL. Staff noted that the request is to dedicate right-of-way along Arthur Road for the property at 1091 S. Dorset Road with a total of 0.330 acres of Inlot 7392 to be dedicated.

A motion was made by Mr. Wolke, seconded by Mr. McGarry, that the Troy Planning Commission recommends to Troy City Council the approval of the Replat of Inlot 7392 and the acceptance of the dedication of 0.330 acres along Arthur Road as right-of-way.

MOTION PASSED, UNANIMOUS ROLL CALL VOTE

PROPOSED AMENDMENT TO THE ZONING CODE REGARDING THE HISTORIC PRESERVATION OVERLAY DISTRICT.

Staff provided the proposed code changes and provided information of:

BACKGROUND AND DISCUSSION:

On November 15, 2021 City Council adopted a moratorium of 180 days on the issuance of certificates of appropriateness (COA) to allow demolition or removal of a historic or contributing property (except immediate demolitions related to public safety concerns) in the City of Troy Historic Preservation Overlay District.

On May 14, 2022 a new moratorium was approved so staff could continue to research ordinance provisions of Ohio Communities with historic downtowns, consult with legal counsel and appropriate state organizations, and make informed recommendations to the Troy Planning Commission and City Council. This moratorium will expire on July 14, 2022. A summary of major proposed changes:

Section 1137.07, "Procedure For Appeals". Update the appeals section to provide clarity regarding applicability, initiations and review criteria.

Section 1143.22(k), "HP-O District". Define minor alterations and note this activity does not need a COA.

Section 1143.22(j), "HP-O District". Explain when a COA is required and define the criteria for moving forward with an application.

Section 1143.22(i),(m) "HP-O District". Describe the COA review by the Zoning Administrator and Planning Commission and define their responsibilities by project activity.

Section 1143.22(n), "HP-O District". Introduce the process for a demolition Certificate of Appropriateness which cannot be considered unless the applicant meets strict and quantifiable evidence of economic hardship, which evidence must include multiple analyses, rehabilitation quotes and required financial guarantees.

Section 1143.22(e), "HP-O District". Propose an HP-O Design Manual to provide a framework of guidelines to review for COA applications.

Section 1143.22(p), "HP-O District". Designate criteria for demolition by neglect.

Eliminate separate penalty for this section and follow the penalty section for the Zoning Code.

DISCUSSION: Mr. Kappers provided staff with some corrections and clarifications (on pages 1, 11, 15 and 20) and asked that they be included in the drafted provided the Commission for the next meeting. In regard to Penalty Section, staff advised that the Director of Law suggested that be removed from this Section and that penalties will be updated later.

PUBLIC HEARING:

A motion was made by Mr. Kappers, seconded by Mr. Wolke, that the Planning Commission hold a public hearing on the proposed Zoning Code changes to the Historic Preservation Overlay District.

MOTION PASSED, UNANIMOUS ROLL CALL VOTE

There being no further business, the meeting adjourned at 3:48 p.m. upon motion of Mrs. Ehrlich, seconded by Mr. Wolke, and approved by unanimous voice vote.

Respectfully submitted,

Chairman

Secretary

MEMORANDUM

TO: City of Troy Planning Commission Members

FROM: Austin Eidemiller, Planning & Zoning Manager

DATE: June 22, 2022

SUBJECT: Historic District – 101 Public Square NW

PROPOSAL:

A request by Kyle Baker, with Bakers Locksmith, for the Planning Commission to consider the review of paint colors and a building sign at the property located at 101 Public SQ NW. The property is located in the B-3 Central Business District.

The OHI form lists the brick building as a contributor to the historic character of the district, although the first level has been greatly altered. The building was built in vernacular style in 1847 and is on the National Register of Historic Places.

DISCUSSION:

The building will be Grey (Functional Gray SW 7024), the window and door trim will be white (Pure White SW 7005) and the front entry doors and window sills will be painted black (Peppercorn SW 7674). The new colors will compliment Agave and Rye (see attached design graphics).

Additionally, the applicant is requesting a 39" x 92" (24.8 Square Feet) building sign in the shape of a key. The sign will be made of PVC and will be stud mounted. The existing cabinet will be removed with this request. The colors will consist of Pure White SW 7005, Tarmac Green RGB:69, 128, 78, and Pepper Corn SW 7674. The applicant will be requesting to add gooseneck lighting to the building sign at a future meeting.

This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same.

RECOMMENDATION:

Staff recommends approval of the proposed paint scheme and sign, based on the following:

- The colors will compliment neighboring properties; and
- The colors do not cover any contributing features; and
- The sign colors will complement the building; and
- The colors and sign will not detract from the historic integrity of the streetscape.

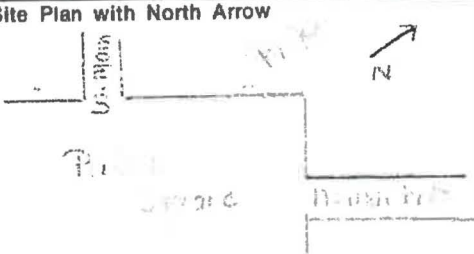


Troy Development Department
102 S. Market St.
Troy, OH 45373
937.339.9481



OHIO HISTORIC INVENTORY

Ohio Historic Preservation Office
Ohio Historical Center
Columbus, Ohio 43211

1. No. <u>MIA 229-05</u> <u>10928-00030W</u>		4. Present Name(s) <u>Mayo Building</u>		1. No. 10928 00030W	4. County Miami
2. County <u>Miami</u>		5. Other Name(s)			
3. Location of Negatives <u>Regional Office 5HA</u>					
6. Specific Location <u>101 Public Square</u>		16. Thematic Category <u>C</u>		4. Present Name(s) <u>Mayo Building</u>	5. Other Name(s)
7. City or Town <u>Troy</u> If Rural, Township & Vicinity		17. Date(s) or Period <u>1847</u>			
8. Site Plan with North Arrow 		18. Style or Design <u>Vernacular</u>			
		19. Architect or Engineer			
		20. Contractor or Builder			
		21. Original Use, if apparent			
		22. Present Use <u>law office</u>			
9. Coordinates <u>Troy</u> Lat. _____ Long. _____ U.T.M. Reference 1 6 7 3 8 6 0 0 4 4 3 5 6 8 0 Easting Northing Site ☐ Building ☒ Structure ☐ Object ☐		23. Ownership Public ☐ Private ☒			
11. On National Register? Yes ☒ No ☐		24. Owner's Name & Address, if known <u>Howard Swinehart (attorney)</u>			
12. Is It Eligible? Yes ☐ No ☐		25. Open to Public? Yes ☐ No ☐			
13. Part of Estab. Yes ☒ Hist. Dist.? No ☐		26. Local Contact Person or Organization <u>Troy Historical Society</u>			
14. District Potent'l? Yes ☐ No ☐		27. Other Surveys in Which Included <u>Historic Troy, Ohio</u>			
15. Name of Established District <u>Troy Public Square Historic Dist.</u>		28. No. of Stories <u>2</u>		29. Basement? Yes ☒ No ☐	
		30. Foundation Material <u>stone</u>		31. Wall Construction <u>brick</u>	
		32. Roof Type & Material <u>pitched asphalt shingle</u>		33. No. of Bays Front <u>5</u> Side	
		34. Wall Treatment <u>8 course Am. Bond (side)</u>		35. Plan Shape <u>rectangular</u>	
		36. Changes (Explain in #42) Addition ☐ Altered ☒ Moved ☐		37. Condition Interior <u>excellent</u> Exterior <u>excellent</u>	
		38. Preservation Underway? Yes ☒ No ☐		39. Endangered? Yes ☐ No ☒ By What?	
		40. Visible from Public Road? Yes ☒ No ☐		41. Distance from and Frontage on Road street front <u>wide</u>	
42. Further Description of Important Features <u>First level greatly altered. Right two bays have a stone store front bricked in. Windows are 6/6 D.H.S. with stone lintels and sills.</u>					
43. History and Significance <u>Contributes to the historic character of the district.</u>					
44. Description of Environment and Outbuildings <u>Downtown Troy</u>					
45. Sources of Information <u>Boese, Bravo, Fraula et al. Historic Troy Ohio. Troy, Ohio; The Troy Historical Society, 1974.</u>				46. Prepared by <u>L.S. Gannon, Jr.</u>	
				47. Organization <u>Regional Office 5HA</u>	
				48. Date <u>7/77</u> 49. Revision Date(s)	





MEMORANDUM

TO: City of Troy Planning Commission Members

FROM: Austin Eidemiller, Planning and Zoning Manager

DATE: June 22, 2022

SUBJECT: 1525 Troy-Sidney Road – Map Amendment (Rezoning)

The City of Troy is requesting the Planning Commission to consider the rezoning of 1525 Troy-Sidney Road (Inlot 11513, Parcel ID: K31-003100), that was included in the Sheridan Annexation that was approved under Ordinance O-5-22. The property is currently zoned county zoning of R-1AAA One-Family Residential. The City is requesting that the zoning district for this parcel be rezoned to R-4 Single-Family Residential District.

This property is located at 1525 Troy-Sidney Road north of Nottingham Lane. Please see attached annexation plat (*Exhibit A*). The surrounding zoning district includes City zoning of R-4 Single-Family Residential. (*Exhibit B*).

DISCUSSION:

The Zoning Code describes the proposed R-4 Single-Family Residential District as “designed to accommodate single-family dwellings on lots with areas of at least nine thousand (9,000) square feet per dwelling unit. This district will be mapped to protect areas that now meet these minimum lot sizes and for comparable areas which will develop in the future. The Comprehensive Plan describes the R-4 District as medium to high density.”

The Comprehensive Plan for future land use map identifies this property as future residential (*Exhibit C*). The majority of the adjacent property in this area is currently City zoning of R-4 Single Family Residential.

In reviewing a rezoning proposal, Section 1139.07 outlines the criteria on which to base decisions:

(A) Whether the change in classification would be consistent with the intent and purpose of this Zoning Code.

The proposed rezoning is consistent with the Zoning Code. Section 1131.02(o) & (r) state the purposes of the Zoning Code are to preserve and enhance property value, and direct particular land uses to the parcel of land best suited for them. The proposed rezoning request achieves these purposes.

(B) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions. The rezoning is necessary

due to the annexation. The proposed use will not have any adverse effects in the area and is similar to the residential uses that currently exist in the surrounding area.

(C) Whether the uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

The proposed use is compatible and similar to the residential uses that currently exist in the surrounding area.

(D) Whether adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

Adequate utilities can be provided for the site if it is rezoned.

(E) The amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, in any, that make a substantial part of such vacant land unavailable for development.

In the vicinity of these subject properties, there is no available vacant land with the R-4 Single-Family Residential zoning classification that is suitable for development.

(F) Whether the proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

Not applicable in this request.

PUBLIC HEARING:

Due to the straight forward nature of the rezoning request, the compliance with the City of Troy Comprehensive Plan, and the fact that City Council is required to hold a public hearing if the request proceeds on, staff does not recommend a public hearing.

RECOMMENDATION:

It is staff's opinion that the proposed rezoning is consistent with the established surrounding areas, and the Comprehensive Plan which shows this area to be developed as residential. Staff is recommending that the Planning Commission provide a positive recommendation of the proposed zoning change from County Zoning of R-1AAA One-Family to City Zoning of R-4 Single-Family Residential, based on the following:

1. The property is currently being utilized as residential use;
2. The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
3. The proposed rezoning is consistent with the surrounding zoning districts; and
4. The proposed rezoning is consistent with the City of Troy Comprehensive Plan.

Exhibit A - Annexation Plat

ANNEXATION TO THE CITY OF TROY

1 TOWN 10 RANGE 18 SECTION STAUNTON TOWNSHIP TROY CITY MIAMI COUNTY OHIO STATE

0.652 ACRE

VOLUME 29 PAGE 62
MIAMI COUNTY RECORDER'S RECORD OF PLATS

MIAMI COUNTY RECORDER
TERESA A. LIVER
202209-00023
PREPARED FOR RECORD
MIAMI COUNTY, TROY, OHIO
06/06/2022 09:41:46 PM
NO ERRORS 0
RECORDING FEE
PAGE 1

MIAMI COUNTY ENGINEER

THIS PLAT WAS REVIEWED AND APPROVED BY US
THIS 16th DAY OF July, 2021

Paul P. Hulsebosch
MIAMI COUNTY ENGINEER

MIAMI COUNTY COMMISSIONERS

THIS PLAT WAS REVIEWED AND APPROVED BY US
THIS 16th DAY OF November, 2021

Gregory A. Simmons
GREGORY A. SIMMONS

Ted S. Mercer
TED S. MERCER

Wade H. Westfall
WADE H. WESTFALL

CITY OF TROY COUNCIL

AT A MEETING OF THE COUNCIL OF THE CITY OF TROY, OHIO, HELD
THIS 22nd DAY OF Feb, 2021 THIS PLAT WAS
APPROVED BY ORDINANCE NO. 0-5-2021 EFFECTIVE 2-24, 2021

Robert V. Ode
MAYOR

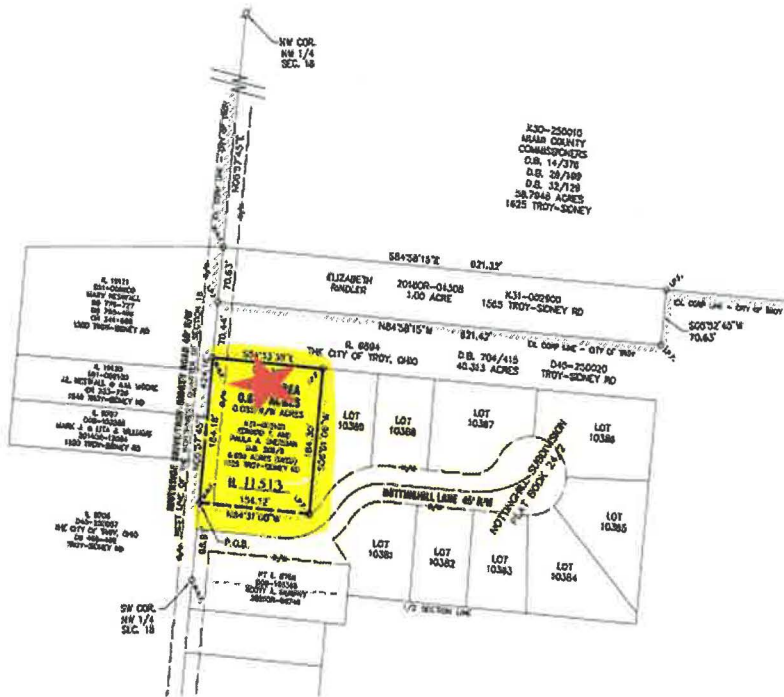
Bill Zell
PRESIDENT OF COUNCIL

Sam M. Knight
CLERK OF COUNCIL

SURVEY REFERENCES

LAND SURVEY 4 PG. 88
LAND SURVEY 4 PG. 108
LAND SURVEY 26 PG. 95
REC. P.B. 5 PG. 1
REC. P.B. 12 PG. 143
REC. P.B. 18 PG. 80
REC. P.B. 24 PG. 2

OWNERS CHART				
10389	JOHN R. & TAMARA K. SHELLHAAS	20140R-09916	008-106070	203 NOTTINGHILL
10388	ANDREW T. & TRISH K. RESS	20190H-10369	008-106068	205 NOTTINGHILL
10387	MICHAEL S. SR. & MELINDA L. SCHULTZ	O.R. 443/993	008-106068	207 NOTTINGHILL
10386	JAMES R. & JULIANNE P. THOMPSON	O.R. 435/409	008-106084	209 NOTTINGHILL
10385	JEFFREY S. & ANGELA L. SCHULTZ	20150R-12053	008-106062	212 NOTTINGHILL
10384	KETH D. & JANEL HOWERY RANLY	O.R. 440/93	008-106060	210 NOTTINGHILL
10383	JOHN A. & BARBARA E. WILSON	20150R-9202	008-106058	208 NOTTINGHILL
10382	JOSEPHINE CAROL SCOTT	O.R. 503/125	008-106056	206 NOTTINGHILL
10381	ERIC J. & TERESA J. HERMAN	O.R. 457/915	008-106054	202 NOTTINGHILL



FEES \$13.20

Matthew D. Goubeaux
MIAMI COUNTY ENGINEER

MIAMI COUNTY AUDITOR
APPROVED AND TRANSFERRED May 6, 2021

Matthew D. Goubeaux
MIAMI COUNTY AUDITOR

THE BEARINGS ARE BASED ON
MAD 80 CORN 2011 ADJUSTMENT,
OHIO SOUTH ZONE,
ODOT VRS CORN NETWORK

SCALE: 1"=100'

LEGEND

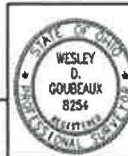
- 5/8" X 30" REBAR
- W/CAP SET
- IRON PIN FOUND
- MAG NAIL SET
- MAG NAIL FOUND
- RAILROAD SPIKE FOUND
- EXISTING CORP. LIMITS

CERTIFICATION

I HEREBY CERTIFY THIS PLAT WAS PREPARED IN ACCORDANCE
WITH O.A.C. CHAPTER 4733.37 STANDARDS OF PLAT OF
SURVEYS AND ALSO CONFORMS TO THE O.R.C. CHAPTER 711
FOR RECORD PLANS AND WAS CONDUCTED UNDER MY DIRECT
SUPERVISION AND BASED ON ACTUAL FIELDWORK PERFORMED
IN MARCH, 2021. ALL MEASUREMENTS ARE CORRECT AND
MONUMENTS ARE SET OR TO BE SET AS SHOWN.

Wesley D. Goubeaux
WESLEY D. GOUBEAUX, P.S. #8254

7/15/2021
DATE



PREPARED BY: ChoiceOne Engineering	DATE: 03-19-2021
DRAWN BY: MPL	JOB NUMBER: MIATRO2001
SHEET NUMBER: 1 OF 1	

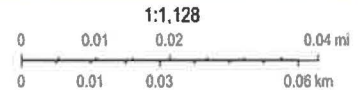
Exhibit B – Zoning Map

Zoning Map



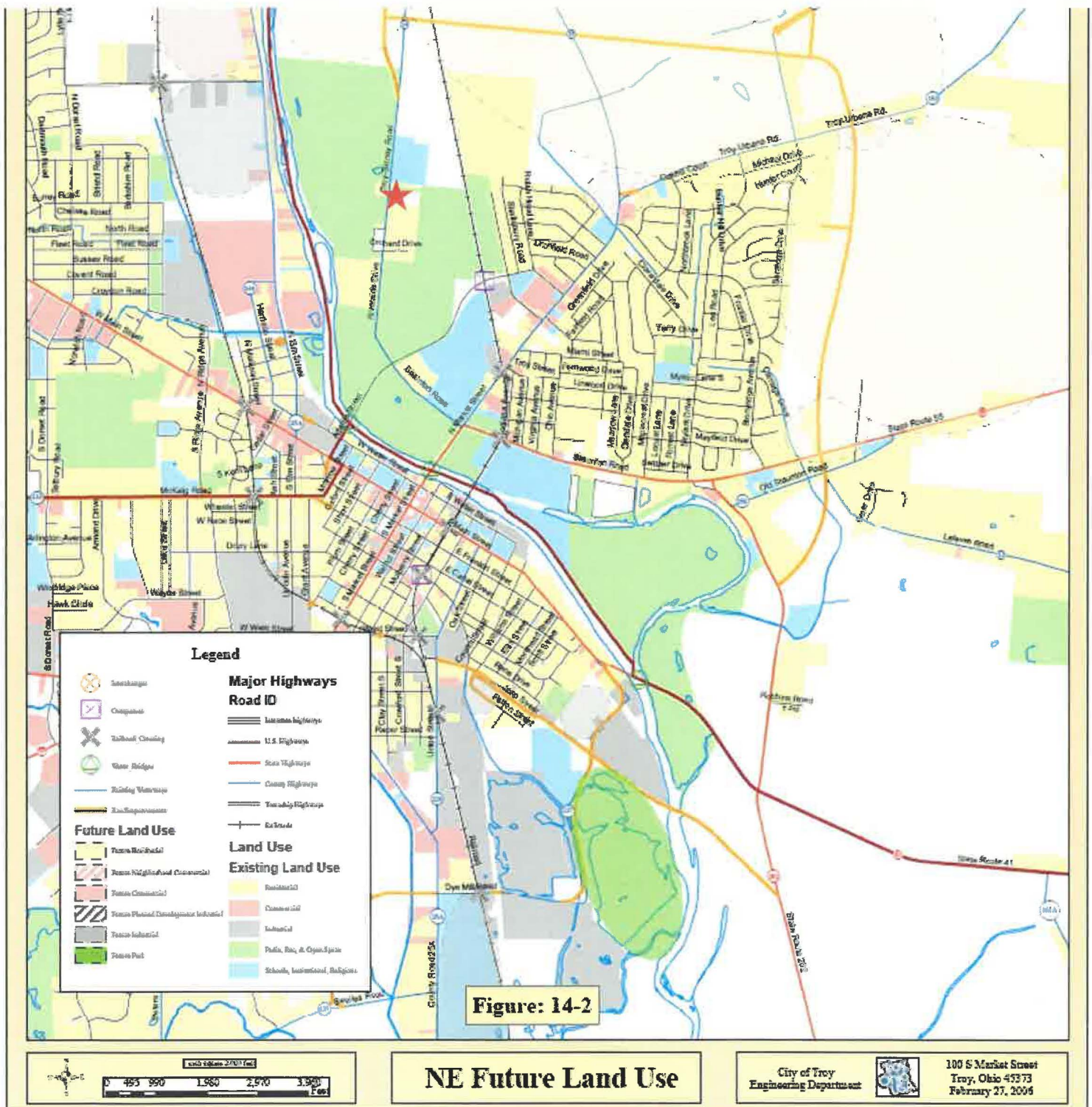
6/17/2022, 8:29:43 AM

Parcel	Agriculture-Residential: 5 Acre Min.	R-6 Two Family Residential: 3,000 SqFt/DU	B-4 Highway Service Business District
New Parcel	R-1 Single Family Residential: 40,000 SqFt	R-7 Multiple Family Residential: 3,000 SqFt/DU	M-1 Planned Industrial District
City Limits	R-2 Single Family Residential: 20,000 SqFt	OR-1 Office-Residential: 3,000 SqFt/DU	M-2 Light Industrial District
Troy Streets	R-3 Single Family Residential: 15,000 SqFt	OC-1 Office-Commercial District	M-3 General Industrial District
Historic District	R-3B Single Family Residential: 12,000 SqFt	B-1 Local Retail District	PUD Planned Unit Development
Zones	R-4 Single Family Residential: 8,000 SqFt	B-2 General Business District	WVO Wellhead Operation District
County Zoning (Outside Troy)	R-5 Single Family Residential: 6,000 SqFt	B-3 Central Business District	City Administered County Zoning
Agriculture: 20 Acre Min.			



City of Troy

Exhibit C – Comp Plan Future Land Use Map



TO: CITY OF TROY PLANNING COMMISSION

FROM: Jillian Rhoades, PE, City Engineer

DATE: JUNE 17, 2022

SUBJECT: Dedication of Right-of-Way along Barnhart Road and
Fenner Road

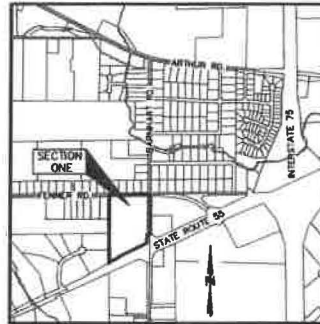
Attached is a copy of a dedication of Right-of-Way along Barnhart Road and Fenner Road. This property is located on the northwest corner of the intersection at West Market Street and Barnhart Road. The Right-of-Way to be dedicated is 1.021 acres of Inlot 10853. The replat is considered a minor subdivision and does not require Planning Commission nor City Council approval. The new replat will encompass two parcels and the creation of the proposed right-of-way known as One Stop Court.

The replat of the two lots for development led to this request of additional Right-of-Way. The replat has been reviewed by the City Engineer and staff is requesting that Planning Commission make a recommendation to City Council to dedicate 1.021 acres of Inlot 10853 as right-of-way, with the condition that the escrow agreement is approved prior to going to Council.



MOMENTUM CENTER PARK-SECTION ONE

10853 INLOT TROY MIAMI OHIO
CITY COUNTY STATE



VICINITY MAP
N.T.S.

CITY OF TROY PLANNING COMMISSION

AT A MEETING OF THE PLANNING COMMISSION OF THE CITY OF TROY, OHIO, HELD THIS ____ DAY OF ____, 20__ THIS PLAT WAS APPROVED.

_____, CHAIRMAN _____, SECRETARY

CITY OF TROY COUNCIL

WE, THE CITY COUNCIL FOR THE CITY OF TROY, MIAMI COUNTY, OHIO DO HEREBY APPROVE AND ACCEPT THE DEDICATION OF LAND FOR THE STREETS AS SHOWN ON THIS PLAT OF THE MOMENTUM CENTER PARK-SECTION ONE.

SECTION ____, BOOK ____, THIS ____ DAY OF ____, 20__

THIS PLAT WAS APPROVED BY ORDINANCE NO. 0-____-20__, EFFECTIVE ____ 20__

MAYOR _____ PRESIDENT OF COUNCIL _____ CLERK OF COUNCIL _____

CITY OF TROY CITY ENGINEER

THIS PLAT WAS INSPECTED AND APPROVED BY ME THIS ____ DAY OF ____, 20__

JULIAN A. RHODES, P.E.



I HEREBY CERTIFY THAT THIS IS A TRUE REPRESENTATION OF THE SUBDIVISION HEREON PLATTED BASED ON AN ACTUAL SURVEY PERFORMED UNDER MY DIRECTION. 5/8" X 30" IRON PINS WITH CAPS WILL BE SET AT ALL LOT CORNERS AFTER CONSTRUCTION OF STREETS AND UTILITIES.

WESLEY D. COUBEUX, P.E. #8254

PLAT BOOK ____ PAGE ____
MIAMI COUNTY RECORDER'S RECORD OF PLATS

FEE \$ ____

JESSICA A. LOYLE, MIAMI COUNTY RECORDER

DEPUTY

TRANSFERRED THIS ____ DAY OF ____, 20__

MATTHEW W. GEARHART
MIAMI COUNTY AUDITOR

BY: DEPUTY AUDITOR

DRAINAGE

THE CITY OF TROY DOES NOT ACCEPT ANY PRIVATE DRAINAGE EASEMENTS SHOWN ON THIS PLAT. THE CITY OF TROY IS NOT OBLIGATED TO MAINTAIN OR REPAIR ANY CHANNELS OR INSTALLATIONS IN SAID EASEMENTS. THE OWNER OF THE LOT SHALL MAINTAIN THE EASEMENT AREA OF EACH LOT AND ALL IMPROVEMENTS IN IT CONTINUOUSLY. MAINTENANCE OF ALL IMPROVEMENTS WITHIN THE PRIVATE DRAINAGE EASEMENTS SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE LOT AS PROVIDED FOR IN THE DECLARATION AND IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS OF THE CITY OF TROY ON FILE WITH THE CITY ENGINEER. WITHIN THE EASEMENT AREA, NO STRUCTURE, PLANTING OR OTHER MATERIAL SHALL BE PLACED OR PERMITTED TO REMAIN WHICH MAY OBSTRUCT, RETARD, OR CHANGE THE DIRECTION OF THE WATER FLOW.

THE CITY OF TROY SHALL HAVE THE PERMANENT AND IRREVOCABLE RIGHT AND AUTHORITY TO INSPECT SUCH INTERIOR STREETS, ACCESS EASEMENTS, WATERWAYS, COMMON SPACES AND IMPROVEMENTS THEREON AS ARE DEVELOPED IN THIS SUBDIVISION.

THE CITY OF TROY SHALL HAVE THE RIGHT, BUT NOT THE RESPONSIBILITY, TO ENTER UPON ANY LOT IN THE SUBDIVISION TO INSPECT AND MONITOR ANY STORM WATER DETENTION BASIN AREA OR DRAINAGE FACILITIES CONSTRUCTED IN THE SUBDIVISION. IN THE EVENT THAT THE FACILITIES ARE NOT PROPERLY CONSTRUCTED OR MAINTAINED, UPON THE FAILURE OF THE DEVELOPER, LOT OWNER, OR THE ASSOCIATION TO TAKE CORRECTIVE ACTION AFTER BEING DULY NOTIFIED IN WRITING BY THE CITY, THE CITY SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO TAKE WHATEVER ACTION IS NECESSARY TO CORRECT ANY IMPROPER CONSTRUCTION OR TO MAINTAIN STORM WATER DETENTION BASIN AREAS AND DRAINAGE FACILITIES. PROVIDED, HOWEVER, THAT THE DEVELOPER, LOT OWNER, AND/OR ASSOCIATION SHALL FIRST HAVE A REASONABLE PERIOD OF TIME, TAKING INTO ACCOUNT THE URGENCY OF THE MATTER, TO TAKE CORRECTIVE ACTION. ANY COST INCURRED BY THE CITY OF TROY FOR SUCH MAINTENANCE MAY BE ASSESSED TO THE ASSOCIATION OR, IF THERE IS NO ASSOCIATION, OR THE ASSOCIATION HAS CEASED TO EXIST, AGAINST INDIVIDUAL LOT OWNER. THESE RESTRICTIONS SHALL RUN WITH THE LAND, AND SHALL BIND THE OWNERS, SUCCESSORS, AND ASSIGNS UNLESS AND UNTIL A MODIFICATION IS AGREED TO AND APPROVED BY THE COUNCIL OF THE CITY OF TROY.

AREA SUMMARY

2 BUILDING LOTS	12,580 ACRES
EXISTING STREET R/W	0.764 ACRES
DEDICATED NEW STREET R/W	1.021 ACRES
TOTAL	14.365 ACRES

DESCRIPTION

BEING A COMMERCIAL SUBDIVISION CONTAINING 14.365 ACRES OUT OF PART OF INLOT NUMBER 10853, AND OWNED BY THE BOARD OF MIAMI COUNTY COMMISSIONERS AS RECORDED IN 2020OR-18850.



DATE: 02-03-2022
DRAWN BY: HPI
JOB NUMBER: M1ATRO2106
SHEET NUMBER: 1 of 2

DEDICATION

WE, THE UNDERSIGNED, BEING ALL OF THE OWNERS OF THE 14.365 ACRES OF LAND HEREIN PLATTED, DO HEREBY ASSENT TO AND ADOPT THE ACCOMPANYING PLAT OF SUBDIVISION TO BE KNOWN AS THE MOMENTUM CENTER PARK-SECTION ONE AND ALL OF THE RESTRICTIVE COVENANTS AS REFERENCED IN THE CITY OF TROY, MIAMI COUNTY, OHIO, AND DO HEREBY DEDICATE TO THE PUBLIC FOREVER, IN ACCORDANCE WITH THE LAWS IN SUCH CASES MADE AND PROVIDED, THE STREETS AND ROADWAYS AS SHOWN ON SAID PLAT, AND DECLARE THE SAME TO BE FREE AND UNENCUMBERED. THE TITLE ACQUIRED BY DEED AS RECORDED IN 2020OR-18850.

EASEMENTS ON SAID PLAT, DESIGNATED AS UTILITY EASEMENTS, ARE PROVIDED FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF POLES, WIRES, PIPES AND CONDUITS, AND THE NECESSARY ATTACHMENTS IN CONNECTION THEREWITH, FOR THE TRANSMISSION OF ELECTRIC, TELEPHONE, CABLE TELEVISION AND OTHER PURPOSES, FOR THE CONSTRUCTION AND MAINTENANCE OF SERVICE AND UNDERGROUND STORMWATER DRAINS, PIPELINES FOR SUPPLYING GAS, WATER, SANITARY SEWER, HEAT AND OTHER PUBLIC OR QUASI-PUBLIC UTILITY FUNCTIONS TOGETHER WITH THE NECESSARY LATERAL CONNECTIONS, AND ALSO THE RIGHT TO INGRESS TO AND EGRESS FROM SAID EASEMENTS, AND TO CUT, TRIM OR REMOVE TREES AND UNDERGROWTH OR OVERHANGING BRANCHES WITHIN SAID EASEMENT OR IMMEDIATELY ADJACENT THERETO. NO BUILDINGS OR OTHER STRUCTURES MAY BE BUILT WITHIN SAID EASEMENTS, NOR MAY THE EASEMENT AREA BE PHYSICALLY ALTERED SO AS TO

- (1) REDUCE THE CLEARANCE OF EITHER OVERHEAD OR UNDERGROUND FACILITIES;
- (2) IMPAIR THE LAND SUPPORT OF SAID FACILITIES;
- (3) IMPAIR THE ABILITY TO MAINTAIN THE FACILITIES; OR
- (4) CREATE A HAZARD.

THE ABOVE EASEMENTS ARE ALSO PROVIDED FOR OTHER PUBLIC USES AS DESIGNATED AND SHALL BE USED FOR THE CONSTRUCTION OF STORMWATER DRAINS, OPEN CHANNELS, PUBLIC AND PRIVATE SEWERS, PIPELINES FOR THE SUPPLYING OF WATER, CABLE TELEVISION AND FOR ANY PUBLIC OR QUASI-PUBLIC UTILITY OR FUNCTION, CONDUCTED, MAINTAINED OR PERFORMED BY ORDINARY METHODS BENEATH OR ABOVE THE SURFACE OF THE GROUND, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER AND ACROSS LOTS TO AND FROM SAID EASEMENTS.

OWNER:
BOARD OF MIAMI COUNTY COMMISSIONERS

TED S. MERCER, PRESIDENT

WADE H. WESTFALL, VICE PRESIDENT

GREGORY A. SIMMONS, MEMBER

STATE OF OHIO,
COUNTY OF MIAMI, S.S.

BE IT REMEMBERED THAT ON THIS ____ DAY OF ____, 20__, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY CAME THE BOARD OF MIAMI COUNTY COMMISSIONERS, TED S. MERCER, WADE H. WESTFALL, AND GREGORY A. SIMMONS, TO ME KNOWN AND ACKNOWLEDGED THE SIGNING AND EXECUTION OF THE WITHIN PLAT TO BE THEIR FREE AND VOLUNTARY ACT AND DEED.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND OFFICIAL SEAL ON THE DAY AND DATE ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR STATE OF OHIO

COVENANTS AND RESTRICTIONS

PROTECTIVE COVENANTS AND RESTRICTIONS FOR THIS PLAT ARE RECORDED IN 20__OR____ OF THE MIAMI COUNTY RECORDER'S RECORDS.



MIAMI COUNTY ONE STOP CENTER
BOARD OF COMMISSIONERS FOR
MIAMI COUNTY, OHIO
BARNHART ROAD, TROY, OHIO 45373

ISSUE
[NO.] DATE DESCRIPTION
1 04/08/2022 FOR CONSTRUCTION

DATE: 04/08/22
JOB NO.: 3923.00
DRAWN: JAC
CHECKED: ATS
COPYRIGHT BY: ChoiceOne Engineering, Inc.
TITLE: FINAL PLAT

SHEET NO.
C0.10





MEMORANDUM

TO: Troy Planning Commission

FROM: Tim Davis, Development Director

DATE: June 22, 2022

SUBJECT: Recommendation of Zoning Code Changes – Historic Preservation Overlay

BACKGROUND AND DISCUSSION:

On November 15, 2021 City Council adopted a moratorium of 180 days on the issuance of certificates of appropriateness (COA) to allow demolition or removal of a historic or contributing property (except immediate demolitions related to public safety concerns) in the City of Troy Historic Preservation Overlay District.

On May 14, 2022 a new moratorium was provide so staff could continue to research ordinance provisions of Ohio Communities with historic downtowns, consult with legal counsel and appropriate state organizations, and make informed recommendations to the Troy Planning Commission and City Council. This moratorium will expire on July 14, 2022.

Attached you will find a red-lined version of the proposed changes to the Historic Preservation Overlay district and a clean version. Below is a summary of major proposed changes:

- Section 1137.07, "Procedure For Appeals". Update the appeals section to provide clarity regarding applicability, initiations and review criteria.
- Section 1143.22(k), "HP-O District". Define minor alterations and note this activity does not need a COA.
- Section 1143.22(j), "HP-O District". Explain when a COA is required and define the criteria for moving forward with an application.
- Section 1143.22(l),(m) "HP-O District". Describe the COA review by the Zoning Administrator and Planning Commission and define their responsibilities by project activity.
- Section 1143.22(n), "HP-O District". Introduce the process for a demolition Certificate of Appropriateness which cannot be considered unless the applicant meets strict and quantifiable evidence of economic hardship, which evidence must include multiple analyses, rehabilitation quotes and required financial guarantees.
- Section 1143.22(e), "HP-O District". Propose an HP-O Design Manual to provide a framework of guidelines to review for COA applications.
- Section 1143.22(p), "HP-O District". Designate criteria for demolition by neglect.
- Eliminate separate penalty for this section and follow the penalty section for the Zoning Code.

When a proposed amendment would result in a change in the text of the Zoning Code but would not result in a change of zoning classification of any property on the zoning map, the report of the Planning Commission shall contain a statement as to the nature and effect of such amendment and determinations as to the following items:

(a) Whether such change is consistent with the intent and purpose of this Zoning Code. The requested change is consistent with the intent and purpose this Zoning Code. The intent of the Historic Preservation Overlay is to protect and promote the health, safety, and general welfare of the public through: Preservation and Enhancement of Architectural styles, historically significant districts, sites, and buildings; Enhance property values throughout the historic district.

(b) Which areas are most likely to be directly affected by such change and in what way they will be affected. The properties located in the Historic Preservation Overlay will be affected and preserved through the proposed changes.

(c) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas of zoning districts affected or in the City generally, and, if so, the nature of such changed or changing conditions. The American Planning Association recommends that Zoning Codes are reviewed and updated every five (5) years to comply with changes in planning law. These proposed changes achieve these purposes.

REQUESTED ACTION:

Staff recommends that the Planning Commission provide a positive recommendation to City Council.

- (a) ~~Authorization. An appeal from a decision of the Zoning Administrator with respect to the interpretation or application of this Zoning Code may be taken to the Appeals Board by any person aggrieved, or by any officer, department, board, or any governmental agency or body affected by the decision of the Zoning Administrator.~~
- (b) ~~Applicability. An appeal may be made regarding any administrative decision made in the administration and enforcement of this Zoning Code, including administrative decisions by the Zoning Administrator or Planning Commission. An appeal may not be made to the Appeals Board when the Planning Commission is making a recommendation to City Council as part of a legislative action, such as a zoning text or map amendment.~~
- (c) ~~Initiation. Appeals shall only be initiated by the applicant or an owner of property contiguous to the applicant's property, or an owner of property directly across any street or alley, from any order, decision, determination or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.~~
- (d) ~~Timeline for Appeals. Appeals to the Appeals Board shall be filed within thirty (30) days from the decision, determination or interpretation by the Zoning Administrator, or Planning Commission of the Zoning Administrator by filing a written notice of appeal with the Secretary of the Appeals Board. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Secretary of the Appeals Board shall forthwith transmit to the members of the Appeals Board all of the papers constituting the record upon which the decisions being appealed were based.~~
- (e) ~~Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Appeals Board, after notice of appeal has been filed with the Zoning Administrator, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Appeals Board, or by a court of competent jurisdiction on application.~~
- (f) ~~Hearing. The Appeals Board shall select a reasonable time and place for the hearing of an appeal and give at least five (5) days written notice thereof to the owners of property contiguous to the applicant's property, and owners of property directly across any street or alley, as they shall appear on the notice of appeal. In addition, public notice of such hearings stating the time, place, date, and subject of the hearing, shall be published in a newspaper of general circulation in the City at least five (5) days prior to the date of the hearing. The appellant may appear and be heard at the hearing in person, by agent, or by attorney.~~
- (g) ~~Review Criteria. A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.~~
- (h) ~~Decision. The Appeals Board shall, hear and review the decision appealed from, and to that end the Appeals Board shall have all the powers of the Zoning~~

~~Administrator with respect to such decision. The Appeals Board shall~~ and render their written decision on the appeal without unreasonable delay after the close of a hearing, and in all cases, within thirty (30) days after the close of the hearing.

- (i) Records. The Secretary of the Appeals Board shall maintain complete records of all actions of the Appeals Board with respect to appeals.
- (j) Authority. The Appeals Board shall have the authority to establish and adopt rules of procedures for the conduct of the hearing.

DRAFT

HP-O HISTORIC PRESERVATION OVERLAY DISTRICTS

- (a) Historical Districts. The public interest calls for the preservation and protection of sites and structures within Troy city limits that have historical, architectural, archeological, and cultural values and serve as visible reminders of the history and heritage of this city, state, and nation. Well-preserved historic buildings and places, attractive residential areas, and orderly business districts add meaning and livability to a city. Hence, to accomplish this, it is necessary to provide a method whereby, with careful consideration for private property rights and only after a thorough analysis of the objectives to be achieved, certain procedures and regulations are established for changes made to significant buildings or neighborhoods.
- (b) Purpose. It is the intent of this Section to promote and protect the health, safety, cultural, economic, and general welfare of the public through:
- (1) The protection, enhancement and use of structures, sites and areas that are reminders of past eras and events and persons important in local, state, or national history;
 - (2) The preservation and enhancement of a city of varied architectural styles reflecting the distinct phases of the city's history;
 - (3) The preservation, restoration, or rehabilitation of historically significant districts, sites, buildings, structures, and objects that possess integrity of location design, setting, materials, workmanship, feeling, and association;
 - (4) The development and maintenance of appropriate settings and environment for the aforesaid sites and areas;
 - (5) The enhancement of Troy's attractiveness to visitors, tourism, and the support and stimulus to the economy thereby provided;
 - (6) The enhancement of property values, economic development, and neighborhood stability;
 - (7) The preservation, renovation, and adaptive reuse of the buildings within historic districts for economically productive uses;
 - (8) The consideration of the broadest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which Troy's historic districts may continue to exist as living, changing commercial and residential areas, not static environments;
 - (9) The protection of the property rights of the owners whose property is declared to be a Historic Structure, or is located in the area designated as a Troy Historic Preservation Overlay District;
 - (10) The encouragement of civic pride in the beauty and notable accomplishments of the past;

- (11) To this end, this section authorizes the adoption of overlay historic districts and to review and approve architectural modifications which affect the historic quality of such historic districts and sites.

(c) Designation of Overlay District.

- (1) The Planning Commission may recommend the adoption or modification of a historic district overlay on all eligible areas to the Troy City Council. The boundaries of each such district shall be indicated on the official zoning map.

(d) Historic District Definitions. The following definitions are only applicable in the Historic Preservation and Historic Landmark Districts.

- (1) **Architectural Design Standards:** The United States Secretary of the Interior's Standards for the Treatment of Historic Properties and any supplemental guidelines adopted by the City of Troy.
- (2) **Adverse Effect:** An occurrence or condition which includes, but is not limited to:
 - A. destruction or alteration of all or part of a property;
 - B. isolation from or alteration of a property's surrounding environment; or
 - C. neglect of a property resulting in its deterioration or destruction.
- (3) **Applicant:** Any person, or their representative, who applies for a building or demolition permit or for a certificate of appropriateness for construction, alteration or demolition of a Listed Property or structure.
- (4) **Appurtenance:** Any structure or object subordinate to a principal structure or site located within a Listed Property or Historic District and visible from the public right-of-way including, but not limited to, a bicycle rack, carriage house, display sign, fence, fixture, fountain, garage, outbuilding, pavilion, public artwork, statue, street furniture, shed, trellis, vending machine, or similar item.
- (5) **Architectural Feature:** The architectural treatment and general arrangement of such portion of the exterior of a property as is designed to be exposed to public view and/or the publicly accessible interior of any Listed Property which was listed in part, or in whole, because of the interior's historic or architectural significance.
- (6) **Certificate of Appropriateness:** A certificate issued by the Planning Commission or Zoning Administrator indicating that the proposed change, alteration or demolition of a historic building or structure within a historic site or district, is in accordance of the provisions of this chapter and the design guidelines.
- (7) **Intrusion:** An adverse effect which introduces a visual, audible, or atmospheric element which is out of character with the property or the district or alters its setting.
- (8) **Landmark:** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, state or nation and which has been designated as a landmark pursuant to

the provisions of this Section.

- (9) **District:** The Historic Preservation or Historic Landmark Overlay area in which the property subject to the application is located or ten (10) or more structures and/or sites grouped together in a geographically defined area possessing a significant concentration, linkage or continuity of structures, appurtenances or sites that are united by past events, aesthetics, plan or physical development and where at least seventy-five (75) percent of the structures in which the property subject to the application is located.
- (10) **Economic Return:** A profit or increase in value from use or ownership of a site, structure, building, appurtenance or object that accrues from investment of capital or labor.
- (11) **Façade:** The face or front of a structure of any vertical surface thereof adjacent to a public way.
- (12) **Group:** Two or more structures, objects and/or sites of which are located in geographical proximity and are united by aesthetics, past events, plan or physical development.
- (13) **Guidelines:** The document adopted by the City of Troy that sets forth the architectural characteristics of a Listed Property or a Historic District area, or a specific property therein and provides design guidance for appropriate construction or alteration therein pursuant to the provisions of this Section. Guidelines and standards are intended to be consistent with each other.
- (14) **Inventory:** A systematic identification of properties having cultural, historical, architectural or archaeological significance compiled according to standards adopted by the City for evaluating property to be considered for designation as a Listed Property on the National Register of Historic Places.
- (15) **Listed Property:** Any structure, group, district or site so designated by the City pursuant to the provision of this Section.
- (16) **Preservation:** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features, rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within the scope of the project.
- (17) **Reconstruction:** The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.
- (18) **Rehabilitation:** The act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical cultural or architectural values.

- (19) **Restoration:** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within the scope of the project.
- (20) **Structure:** A building, object, monument, work of art, or work of engineering permanently affixed to the land. The term “structure” shall be construed as if followed by the words “or part thereof”. The distinction between “structure” and “building” should be noted. “Structure” is a broader term; “building” is a restricted form of “structure”.
- (21) **Substantial Economic Hardship:** A financial burden imposed upon an owner which when factually detailed and measured by standards and criteria of this Section is unduly excessive preventing a realization of an economic return upon the value of the property.
- ~~(22) **Unusual and Compelling Circumstances:** Those uncommon and extremely rare instances, factually detailed and conforming to the standards and criteria therefore contained in this Section, warranting a decision contrary to its architectural characteristics, guidelines, or standards or an appeal contrary to the evidence presented.~~

(e) City of Troy Historic Preservation Overlay Design Manual.

The Planning Commission shall adopt a Historic Preservation Overlay Design Manual to provide a framework of design guidelines that the Planning Commission and staff shall use when reviewing an application for a Certificate of Appropriateness (COA). These design guidelines shall be used in addition to any applicable standards of the underlying base zoning district, standards found in this chapter, and shall consider the United States Secretary of Interior Standards for the Treatment of Historic Properties and the National Register of Historic Places. The Planning Commission shall hold a public hearing to adopt, establish, or alter the Design Manual.

(f) “HP-O” Historic Preservation Overlay District

- (1) **Purpose.** The “HP-O” Historic Preservation Overlay District is an overlay district designed to preserve and protect groups of structures, sites, or areas eligible for or listed on the National Register of Historic Places in which the historic district consists of a large number of non-qualifying structures, undeveloped parcels, or contributing structures that have not undergone rehabilitation, and/or the planning district as a whole consists of a large number of nonqualifying structures which dominate the vista.
- (2) **Nomination.** Any area eligible may be nominated by a petition signed by owners representing seventy-five (75) percent of the parcels in the proposed area. The petition shall be in a form prescribed by the City of Troy and filed with the Clerk of the City Council who shall determine the validity of the petition and eligibility of the proposed area shall be determined. If the area is eligible and the petition is

valid, an amendment to the official zoning map for all or part of the original proposed area in accordance with Section 1143.22(f)(3) of the Troy Codified Ordinances maybe proposed by the Planning Commission. Thereafter, the overlay district may be designated in the manner set forth in Section 1141.03 of this Zoning Code.

- (3) Boundaries. In determining the boundaries of a “HP-0” Historic Preservation Overlay District, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:
 - A. The area must be eligible for or listed on the National Register of Historic Places.
 - B. The overlay district must be at least ten contiguous streetscapes. In no instance, shall the overlay district be less than four block faces.
 - C. Complete streetscapes or block faces may be included in the historic district so long as a portion of the streetscape is on or eligible for the National Register of Historic Places.
 - D. A structure, site, or area which is not eligible for or listed on the National Register may be included in the historic district if it is effectively enveloped by an eligible area under Section 1143.22(f)(1) of the Troy Codified Ordinances and by a topographic barrier such as an elevated highway, railroad, river, and/or bridge.
- (4) ~~ACTIVITIES GOVERNED. Any major modification as set forth in Section 1143.22(f)(14) of this Zoning Code shall require a certificate of appropriateness.~~

(g) “HL-O” Historic Landmark Overlay District

- (1) Purpose. The “HL-0” Historic Landmark Overlay District is an overlay district designed to preserve and protect single parcels or groups of structures, sites, or area eligible for or on the National Register of Historic Places, in which the historic district as a whole consists primarily of historically or architecturally significant structures, sites, or areas and/or contributing structures which have undergone rehabilitation or restoration.
- (2) Nomination. Any area eligible may be nominated by a petition signed by owners representing seventy-five (75) percent of the parcels in the proposed area. The petition shall be in a form prescribed by the City of Troy and filed with the Clerk of the City Council who shall determine the validity of the petition and eligibility of the proposed area shall be determined. If the area is eligible and the petition is valid, the Planning Commission may propose an amendment to the official zoning map for all or part of the original proposed area in accordance with Section 1143.22(f)(3) of this Zoning Code. Thereafter, the overlay district may be designated in the manner set forth in Sections 1141.03 of this Zoning Code.
- (3) Boundaries. In determining the boundaries of a “HL-0” Historic Landmark Overlay District, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:
 - A. The single parcels or groups of structures, sites, area or structure must be

eligible for or listed on the National Register of Historic Places.

- B. Complete streetscapes or block faces may be included in the historic district so long as a portion of the streetscape is on or eligible for the National Register of Historic Places.
- C. A structure, site, or area which is not eligible for or listed on the National Register may be included in the historic district if it is effectively enveloped by an eligible area under Section 1143.22(g)(1) of the Troy Codified Ordinances and by a topographic barrier such as an elevated highway, railroad, river, and/or bridge.

~~(4) ACTIVITIES GOVERNED. All modifications as set forth in Section 1143.22(f)(14) of this Zoning Code shall require a certification of appropriateness.~~

(h) Duties of the Zoning Administrator.

The Zoning Administrator shall recommend designation and/or modification of particular historic districts by adoption of controls on particular parcels through amendments to the official zoning map and shall review and act upon all applications for certificates of appropriateness for modifications.

(1) The duties of the Zoning Administrator shall be as follows:

A. To conduct a survey of all properties as may be required to keep the survey up to date and to maintain a Listed Properties designation.

B. To maintain the Troy Register of Historic Landmark Properties as defined by the Planning Commission which will contain the following information about each Listed Property:

1. The roster number of the Listed Property.
2. The description of the parcel of real estate, on which the Listed Property is located, as such appears on the tax duplicate.
3. The street address or other applicable reference to the recognized location of the Listed Property.
4. A site plan of the real estate on which the Listed Property is located showing the location thereon of the Listed Property.
5. A minimum of two photographs of the Listed Property.
6. A statement of the historical and/or architectural significance of the Listed Property.
7. The owner's name, address and phone number.

C. To nominate, in a manner consistent with Federal and State regulations, property of designation as Listed Property with approval of City Council, review nominations to the National Register of Historic Places and make recommendations to the Planning Commission, Mayor and City Council concerning such nominations.

- D. To advise the Planning Commission and City Council and to make recommendations as to the conservation of the City structures, sites, groups and districts and as to any alteration, rehabilitation, or demolition proposed for City-owned property, parks or rights-of-way listed in the Troy Register of Historic Landmark Properties as defined by the Planning Commission.
- E. To study the problems and determine the needs of the City in furthering the purpose of preservation.
- F. To determine what legislation or policy, if any, is necessary to further preservation, restoration, and development of historic resources and to recommend the same to the Planning Commission, Mayor or City Council, as appropriate.
- G. To prepare, recommend for adoption and publish guidelines architectural design, alteration, new construction, site improvements and demolition or removal standards consistent with this Zoning Code.
- H. To consider applications for proposed construction, reconstruction, alteration or demolition of structures, architectural features or site elements of Listed Properties.
- I. To review and make recommendations to the Planning Commission on all applications for certificates of appropriateness for modifications.
- J. To initiate complaints of property maintenance code violations for properties in the historic district.
- K. To review minor modifications as established in section 1143.22 (k) of the Troy Codified Ordinances Classification of Review by Scope of Work Table.
- L. To forward major modifications applications to the Planning Commission as established in section 1143.22 (k) of the Troy Codified Ordinances Classification of Review by Scope of Work Table.

(i) Ordinary Maintenance.

- (1) Nothing in this section shall be construed to prevent ordinary maintenance of a structure or appurtenance of a structure in a listed property or district or repair of any exterior feature which does not involve a change in design, material, color, or outer appearance thereof.
- (2) The following items are considered ordinary repair and maintenance and do not require a Certificate of Appropriateness:
 - A. Minor nonabrasive cleaning that does not damage the historic material;
 - B. Minor repair of exterior surfaces such as caulking and masonry re-pointing; and

- C. Replacement of gutters and downspouts with the same color and material as existing. This does not include replacement of fascia boards or soffits.

- (3) Neither the owner of, nor the person, nor an organization in charge of a structure within the district, shall by willful action or willful neglect fail to provide sufficient and reasonable care, maintenance and upkeep and permit that structure or landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce a detrimental effect upon the character of the landmark or structure in question, including, but not limited to:

- A. The deterioration of exterior walls or other vertical supports;
- B. The deterioration of roofs or other horizontal members;
- C. The deterioration of exterior chimneys;
- D. The deterioration or crumbling of exterior plaster or mortar;
- E. The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows and doors;
- F. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions; or
- G. Demolition by neglect as defined in Section 1143.22(p) of the Troy Codified Ordinances.

- (4) This provision shall be in addition to all other applicable code provisions. The Zoning Administrator shall gather evidence of a violation hereof and shall initiate appropriate action thereon.

(j) Certificate of Appropriateness (COA).

In addition to other permits required by this Zoning Code, a certificate of appropriateness (COA) is required prior to any construction, demolition, exterior modification or maintenance of exterior surfaces in any historic district unless specifically exempted by this zoning code in accordance with Section 1143.22(q) of the Troy Codified Ordinances.

- (1) Initiation. An application for a COA may be initiated by an owner of the property that is the subject of the application, or an agent authorized by the owner to file the application.
- (2) Application. Applications for a zoning certificate in a historic district shall also be considered an application for a COA and shall be submitted to the Zoning Administrator. Such applications shall contain information, which will enable the determination of compliance with the rehabilitation standards and land use controls set forth in this Section.
 - A. Agents being authorized by the property owner shall provide a written notice of authorization with the application. If authorization is not provided, the application shall be deemed incomplete by the Zoning Administrator.

B. The process of reviewing of a COA application shall not be initiated until the Zoning Administrator determines the application is complete and all the required fees established by City Council are paid.

C. Complete Application Determination

- i. An application shall be regarded as complete when all required information has been provided in a form, in such numbers, and in a manner (digital or hard copy) as established by the Zoning Administrator and made available to the public.
- ii. The Zoning Administrator shall make a determination of the completeness of an application within ten (10) business days of the application filing.
- iii. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
- iv. If an application is determined to be incomplete, the Zoning Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the Zoning Administrator determines that the application is complete.
- v. The city shall not be required to process an incomplete application, forward an incomplete application to the Planning Commission, or be subject to any required timelines of review for incomplete applications.
- vi. If the applicant fails to correct all deficiencies and submit a complete application within 60 days of the notice provided by the Zoning Administrator, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The Zoning Administrator may grant one (1) 60-day extension if just cause, as solely determined by the Zoning Administrator, is shown by the applicant.
- vii. No reconsideration of an incomplete application shall occur after expiration of the 60-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements of Section 1143.22(j) of the Troy Codified Ordinances, submit a new application, and submit a new filing fee.
- viii. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(k) Classification of Decision by Scope of Work Table

Classification of Decision by Scope of Work	Planning Staff Decision	Planning Commission Decision
1. Type of Work	Minor Alteration	Major Alteration
A. Architectural Work		
i. Installation or relocation of new pre-fabricated outbuilding or new structure 140 square feet or less.	✓	
ii. New structure greater than 140 square feet		✓
B. Demolition		
i. Significant principal structure		✓
ii. Non-significant principal structure		✓
iii. Significant accessory structure		✓
iv. Non-Significant accessory structure	✓	
C. Additions to principal structures		
i. Additions to substantial spaces such as rooms		✓
ii. Addition of front or side decks, porches, patios		✓
iii. Addition of rear patio, decks, or porches	✓	
D. Additions to accessory structures		
i. Additions to significant accessory structures		✓
ii. Additions to non-significant accessory structures	✓	
E. Windows and Doors		
i. Replacement of original windows and original street-facing doors on significant structures		✓
ii. Replacement of non-original and non-contributing windows and doors, and non-street facing doors	✓	
iii. Modification or installation of window and door openings facing the street		✓

iv. Modification or installation of window and door openings not facing the street	✓	
v. Modification, installation, or replacement of storm windows or storm doors	✓	
vi. Alteration or new construction of storefronts		✓
vii. Restoration of original window or door openings where doors and windows match original or existing	✓	
F. Roofs		
i. Alteration of roof material		✓
ii. Alteration of roof form (including alteration, removal, or construction of dormers)		✓
iii. Construction of new or modification of character-defining chimneys		✓
iv. Replacing roof shingles with the same material and design	✓	
G. Other Building Alterations		
i. Alterations or construction of building elements (including railings, stairs, landings, ramps and flooring)		
ii. Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)		✓
iii. Change in original cladding material or style		✓
iv. Painting of previously unpainted surface on a significant structure		✓
v. Painting of previously painted surface with the same color	✓	
vi. Changes to any non-significant outbuilding	✓	
vii. Character defining building elements or details without reconstruction		✓
vii. Non-character defining building elements or details without reconstruction	✓	
H. Signs		

i. Window signs	✓	
ii. Building signs (other than window signs)		✓
iii. Easel Board signs	✓	
iv. Incidental Signs (Less than 4 sq ft.)	✓	
I. Other		
i. Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria		✓
ii. Work items not listed here that are deemed by staff to be minor in nature, that do not alter the historic character of the building or streetscape.	✓	

(l) Review by the Zoning Administrator.

- (1) The Zoning Administrator shall first review each application for compliance with all requirements of this Zoning Code.
- (2) The Zoning Administrator may distribute the application to other city departments and outside agencies to solicit comment on the proposed COA application.
- (3) After the application is determined to be complete, the Zoning Administrator shall act on the application:
 - A. The Zoning Administrator may approve or deny the application for minor modifications as per the Classification of Review by Scope of Work Table and Design Guidelines.
 - B. In all cases, the Zoning Administrator shall have the authority to forward an application to the Planning Commission.
 - C. Within 45 days, the Zoning Administrator shall forward the completed application to the Planning Commission for major modifications.

(m) Review by the Planning Commission.

- (1) Within 45 days after the COA application is forwarded to the Planning Commission, the Commission shall review the application for all major modifications as set forth in the Classification of Review by Scope of Work Table and any application that is forwarded by the Zoning Administrator.

- (2) The Planning Commission shall review the COA for conformance with the standards as set forth in this section of the Zoning Code and with the Design Manual and shall approve, approve with modifications, table, or deny the application for modifications.
- (3) If an application for modifications is approved, a certificate of appropriateness shall be issued by the Zoning Administrator and the applicant shall be notified of such action in writing within seven (7) days from date of approval.
- (4) Applications for modifications not approved by the Planning Commission may be appealed to the Board of Appeals unless withdrawn by the applicant. If appealed to the Board of Zoning Appeals, the Secretary to the Board of Zoning Appeals shall schedule the application for consideration at the earliest possible date, once a complete application has been submitted.
- (5) Review Criteria. Decisions on a COA application shall be based on compliance with this chapter, any applicable standards of the underlying base zoning district, standards found in this chapter, and shall consider the United States Secretary of Interior Standards for the Treatment of Historic Properties and the National Register of Historic Places.
- (6) -Determining the Significance of a Structure.
 - A. When making decisions or recommendations about changes to structures in the HP-O District, the Planning Commission shall have the authority to make a determination of the historical significance of the structure based on this section.
 - B. For structures that the Planning Commission find that are not historically significant, the board may relax or waive the standards or guidelines found in this chapter or Design Manual.
 - C. The Planning Commission shall determine whether a structure or site is historically significant by meeting at least four (4) of the following criteria:
 - i. Value as a reminder of the cultural or archaeological heritage of the city, state, or nation;
 - ii. Location as a site of a significant local, state, or national event;
 - iii. Identification with a person or persons who significantly contributed to the development of the city, state, or nation;
 - iv. Identification as the work of a master builder, designer, or architect whose individual work has influenced the city, state, or nation;
 - v. Value as a building that is recognized for the quality of its architecture and that it retains sufficient elements showing such architectural significance;
 - vi. Example of an architectural style or period;
 - vii. Contribution to the historical nature of the overall site; and/or

- viii. Character as a contributing element in the Historic Preservation Overlay District.

(n) Certificate of Appropriateness - Demolition, Removal or Moving of Structure.

(1) General. The demolition of a historic or contributing property, or the moving of a structure, can have a significant impact on the character and quality of the historic district by removing an integral part of the historic area fabric; elimination of a part of City of Troy's history; and generally altering the nature of the district for the future. No person shall demolish any structure, or move a structure in a listed property or district until a Certificate of Appropriateness of such demolition or movement has been authorized by the Planning Commission or the Zoning Administrator and a permit is issued by the Zoning Administrator.

- A. No demolition, removal, or moving of structure proposal will be accepted:
- i. Without a mandatory pre-application meeting with Development Staff before the item is included on a Planning Commission Agenda;
 - ii. Without a detailed reuse plan; and
 - iii. Without a detailed plan of preserving any remaining exterior architectural features and/or historical features of the structure.
- B. The applicant shall submit a reuse plan that mitigates any adverse effects of the proposed removal upon the property, the streetscape, and the historic district through:
- i. New construction that is consistent with the Design Manual.
 - ii. Exterior rehabilitation or restoration of the remaining structure that is consistent with the Design Manual.
 - iii. Landscaping the parcel consistent with the Design Manual, providing for its care as common space for the benefit of the general public and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.
 - iv. Posting a financial guarantee in accordance with section 1143.22 (n) (3) of the Troy Codified Ordinance with the Zoning Administrator sufficient to insure completion of the reuse plan, or has requested and received a waiver of these requirements from the Planning Commission.
 - v. If no alternatives or mitigation is possible and the undertaking's benefits in relation to the significance of the property justify demolition as an acceptable loss, the Planning Commission may consider other appropriate reuse plans and or relax any of these requirements.
- C. Prior to acting on an application for demolition of a significant principal structure, the Planning Commission shall hold a public hearing within thirty (30) days after the submittal of a completed application.

- D. Owners of property contiguous to the applicant's property, and owners of property directly across any street or alley shall be notified of the time, date and place of the public hearing no later than five days before the public hearing.
 - E. The Planning Commission may delay determination of the application for a period of no more than one-hundred and twenty days (120) days upon a finding that the property is of such architectural/historical significance that alternatives to demolition may be feasible. In the event that action upon such application is delayed, the Planning Commission may take necessary steps as it deems necessary to preserve the property. Such steps may include but shall not be limited to consultation with civic groups, public agencies and interested citizens.
- (2) The Planning Commission shall only approve a COA for demolition if the application meets one of two conditions: 1) the application satisfies criterion A below; or, 2) the application satisfies criterion B and either C or D or both.
- A. The Planning Commission finds that the structure subject to the application is not historically significant or non-qualifying per section 1143.22 (m)(6), the Planning Commission shall state the basis for such determination and shall be required to make a formal determination that the proposed demolition, removal of an architectural feature, or movement of a structure will not harm or reduce the historical significance of the site on which it is located or the historic district as a whole.
 - B. The cost of repairs exceeds the average of the appraised values of the building and there is no reasonable economic viability for the property as it exists or as it might be rehabilitated. Evidence of economic non-viability shall include:
 - i. Two (2) estimates from licensed and bonded contractors depicting the cost of proposed demolition;
 - ii. Two (2) appraised values of the property by two (2) licensed appraisers for the following conditions:
 - a. The property's current condition;
 - b. After completion of the proposed demolition;
 - c. After the rehabilitation of the existing property for continued use by providing sales for the previous six months for at least three comparable properties. If there are not sales for the previous six months of comparable properties, sales for the previous year of comparable properties may

be used; and

- d. If the property is an income-producing property, the valuation must include the rent scheduled and anticipated income after such rehabilitation, and the same for at least three comparable properties to substantiate the information provided for the property in question.
- iii. Two (2) estimates from licensed and bonded architects, developers, contractors, or appraisers experienced in historic rehabilitation as to the cost to rehabilitate the building to the point of which a principally permitted use or a reasonable profit can be realized from the property in underlying zoning district, including, but not limited to, bringing a structure up to code, so that it can be occupied, that is, not necessarily its “highest and best use”, preferred use, or a restoration project.
- iv. The applicant has submitted evidence illustrating significant damage or structural issues pertaining to the structure that would present a specific infeasibility towards the use or occupation of the structure, as it currently exists, or an economic infeasibility towards the preservation, rehabilitation, restoration, or reconstruction of the structure.
- v. The property owner and/or applicant has actively marketed the property and structure for the purposes of maintenance, preservation, restoration, or reconstruction, and not demolition. The property owner and/or applicant has provided detailed documentation demonstrating marketing efforts such as Requests for Proposals (RFPs) or an MLS listing.
- vi. The property owner and/or applicant shall provide detailed information supporting this claim, such as:
 - a. Length of time the property was marketed or for sale and response to the marketing efforts;
 - b. Lack of interest in continued maintenance, preservation, restoration, or reconstruction of the property; and/or
 - c. Cost of rehabilitation of structure compared to estimated property value post-rehabilitation.
- vii. The applicant demonstrates that they sought out additional funding sources through local foundations, state, and/or federal grants, i.e. tax credits.
- viii. Demolition by neglect is prohibited. In the event that the Planning Commission finds a situation that may be classified as demolition by neglect, the Planning Commission shall notify the Zoning Administrator to proceed with the notice requirements and

enforcement procedures set forth in this code. Demolition by neglect is further defined in section 1143.22 (p) of the Troy Codified Ordinance.

- C. That the property proposed for demolition is inherently inconsistent with other properties in between two intersecting streets on the same block of the Historic District. For example, it may have been built at a time outside of the period of significance of the historic district.
 - D. That the property proposed for demolition contains minimal features of architectural and/or historical significance due to any of the following:
 - i. Significant loss of original architectural features.
 - ii. Significant loss of decorative or other architectural features that contribute to a historic structure and historic district.
 - iii. Compounding alterations and changes to the structure that render original architecture and historic significance lost or indeterminable.
 - iv. The structure contains no historic architectural features (i.e. modern buildings or modern additions to a historic structure).
- (3) If the Planning Commission approves a COA for demolition of a principal structure, or movement of a principal structure, the applicant shall be subject to additional bonds or sureties as established below:
- A. Financial Guarantee Required. For demolitions, the applicant shall be required to submit a financial guarantee in a form acceptable to the city that will guarantee:
 - i. The safe demolition of the applicable structure;
 - ii. The approved reuse plan;
 - iii. Necessary protections to prevent damage to any adjacent properties;
 - iv. Clean-up of the site after demolition; and
 - v. Installation, upgrades, or repairs of any infrastructure improvements on the site that are necessary for future construction on the site per the approved plans.
 - B. The guarantee shall be in such an amount as the Planning Commission determines to be reasonably necessary to complete the demolition of the structure, ensure the protection of surrounding properties, and ensure the clean-up of the site.
 - C. The financial guarantee shall be an obligation for the faithful performance of any and all work approved by the Planning Commission, or its duly authorized representative, regarding any demolition and reconstruction project approved under this section.
 - D. The financial guarantee shall contain the further condition that should the applicant fail to complete all work and improvements required to be done by the applicant within 12 months or an alternative timeframe approved by

the Planning Commission, the city may, at its option, cause the demolition to be completed, all required work to be done, and necessary improvements constructed at the expense of the applicant.

- E. The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefore.
- F. The guarantee may take the form of a bond, cash deposit, or an irrevocable letter of credit as further outlined in this subsection.
- G. Guarantees shall be made payable to the City of Troy and be acceptable to staff and the city's legal counsel.
- H. The guarantee, or portion thereof, shall not be released until the Zoning Administrator, or authorized representative, is satisfied that the demolition has been completed in conformance with the plans and specifications approved by the Planning Commission.
- I. The applicant shall be in default of the guarantee when one (1) of the following conditions exists:
 - i. The demolition, as approved by the Planning Commission, has not taken place within the time period agreed on in the applicant's contract with the city, and the applicant has failed to establish reasonable cause for such delay to the satisfaction of the Planning Commission and has not received an extension of time.
 - ii. The applicant has not undertaken the demolition in accordance with the minimum standards specified by these regulations, and the applicant is unwilling to modify and upgrade said demolition and subsequent construction within a six-month time period in order to be in compliance with the provisions of these regulations.

(6) Types of Guarantees.

A. Bond.

- i. A bond in the amount determined in accordance with this section shall be filed with the City of Troy.
- ii. The bond may be in the form of a surety bond or a cash bond of the kind approved by law for securing deposits of public money.
- iii. The bond shall be executed by the applicant as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio.

- B. Irrevocable Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the Planning Commission. This letter shall be deposited with the city, and shall certify the following:

- i. The creditor guarantees funds in an amount equal to the cost, as estimated in accordance with this subsection. In the case of failure on the part of the applicant to complete the specified demolition within the required time period, the creditor shall pay to the city immediately and without further action such funds as are necessary to finance the completion of that demolition, up to the limit of credit stated in the letter.
- ii. This irrevocable letter of credit may not be withdrawn or reduced in amount until released by Planning Commission.

C. Cash.

- i. The applicant shall provide a certified check for the amount of the guarantee, payable to the City of Troy.
- ii. When the demolition is complete, the city shall issue a check for the released amount based on this sub-section.
- iii. The city shall not be responsible for paying interest for the period of time the city retains the guarantee.

D. Liability Insurance.

- i. Any applicant who receives an approved COA for the demolition of a structure or the moving of a structure shall, before any work begins, obtain and maintain in full force and effect, at all times during the period of demolition or moving, commercial general liability and automobile liability insurance coverage against claims for injuries to persons or damages to property arising out of the acts or omission of the applicant, or any of his or her contractors, subcontractors, agents, or employees in connection with the demolition or moving of the structure.
- ii. At a minimum, the following is required for all liability insurance policies:
 - a. The policies shall protect the city from any liability for any accident, negligence, failure of the applicant or contractors, or any other liability whatsoever, relating to the construction or maintenance of the subdivision and related public improvements.
 - b. The policies shall be effective during all demolition or moving activities related to the approved COA.
 - c. The policies shall cover, or be endorsed to cover the city, its officials and employees as additional insureds. The coverage shall be primary and non-contributing as respects the city, its officials and employees.
 - d. The commercial general liability coverage shall be on the "occurrence" basis with limits acceptable to the city's Law Director.
 - e. The automobile liability coverage shall be for "any auto" with limits acceptable to the city's legal counsel.
 - f. Insurance is to be placed with insurance companies

authorized to do insurance with a minimum AM Best rating of A: VII, unless otherwise acceptable to the city's Law Director.

- g. An applicant who receives an approved COA for demolition shall provide the City's Law Director with documentation, including but not limited to certificate(s) of insurance, verifying compliance with the specifications herein. The City reserves the right to require complete copies of insurance policies, including endorsements, required by these specifications, at any time.

(o) Time Limit.

- A. A certificate of appropriateness shall remain valid for a period of six (6) months from the date of issuance. If such work is delayed for a period exceeding six (6) months, the certificate of appropriateness shall automatically expire and any other zoning permits issued in conjunction with it shall become void.
- B. The Planning Commission may grant extensions for major modifications, but shall not exceed, two (2) extensions of the period of validity of a certificate of appropriateness, not to exceed six (6) months each, if such request by the owner is at least ten (10) days in advance of the expiration of the certificate of appropriateness. A request for any extension shall set forth reasons for the delay.
- C. The Zoning Administrator may grant extensions for minor modifications, but shall not exceed, two (2) extensions of the period of validity of a certificate of appropriateness, not to exceed six (6) months each, if such request by the owner is at least ten (10) days in advance of the expiration of the certificate of appropriateness. A request for any extension shall set forth reasons for the delay.

Appeal of Planning Commission's Decision.

~~If the application is denied or approved subject to modifications by the Planning Commission, the applicant or any interested party may request a hearing before the Board of Zoning Appeals. Such appeal shall be requested in writing to the Secretary of the Board of Zoning Appeals within ten (10) days of the decision by the Planning Commission.~~

- ~~D. The Board of Zoning Appeals review shall be by hearing. The Secretary of the Board of Zoning Appeals shall notify the applicant of the time and place of the hearing not less than seven (7) days before the date of the hearing and written notice of the hearing shall be given to owners of property abutting the applicant's property and owners of property directly across any street or alley at least five (5) days before the hearing for which the application has been submitted and shall publish notice in a newspaper of general circulation at least five (5) days before the hearing. The hearing shall be held within thirty (30) days after the date of receipt of application by the Secretary. No new claims or evidence shall be heard and no additional testimony shall be permitted.~~
- E. The Board of Zoning Appeals shall render its decision in writing affirming,

reversing, or remanding the decision of the Planning Commission, in whole or in part, based on one of the following findings:

~~(2) A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with the procedural requirements of this code.~~

F. ~~But no application shall be denied or modified unless a majority of the members of the Board of Zoning Appeals agree to deny or modify the application.~~

G. ~~The Secretary shall notify the Zoning Administrator in writing within seven (7) days of the action of the Board of Zoning Appeals and issue a certificate of appropriateness if the action of the Board of Zoning Appeals resulted in approval or modification of the application.~~

H. ~~The Board of Zoning Appeals shall not be required to hear any application which substantively covers a matter on which it has ruled within the preceding six (6) months.~~

~~(n) CLASS OF STRUCTURES. All structures and sites within a historic district shall be classified by the Planning Commission as significant, non-qualifying, or contributing.~~

~~(o) Architectural Design Standards.~~

~~(1) The United States Secretary of the Interior Standards for the Treatment of Historic Properties will govern the decisions of the Planning Commission in the issuance of certificates of appropriateness.~~

~~(2) Removal of any structure or site listed eligible for or on the National Register of Historic Places may be an irreparable act contrary to the public good as set forth in Sections 1143.22(a) and 1143.22(b) of this Zoning Code, no demolition permit shall be issued for any structure or site so listed anywhere in the city unless accompanied by an approved certificate of appropriateness in accordance with the provisions of Section 1143.22(f)(20) of this Zoning Code.~~

~~(3) Building proportion (height, depth, and width) for new construction shall be such that it is similar to any immediately adjacent structures on the same street, or streets of a corner lot. Any exterior modifications or additions to existing structures shall maintain the proportions of wall height and length, window and door opening sizes, and roof height and slope as the original structure. New principal structures shall conform in these regards to the proportions of adjoining structures. All existing and new principal structures shall maintain a rhythm of the masses to openings. Accessory structures shall conform to the proportions of the principal structure.~~

~~(4) Materials utilized in exterior renovations, additions and construction of accessory or new principal structures shall either match the appearance of the materials used in construction of the original buildings or shall be modern construction materials which create the same effect and shall not be a cosmetic treatment which simulates original fabric.~~

~~(5) All exterior colors shall be appropriate to the architectural style and time period in which the structure was built. Visual relationships of the streetscape shall be maintained.~~

~~(6) Decorative detail items such as chimneys, gutters, downspouts, gables, soffits, hardware, fences, light fixtures, walks, and shutters shall be compatible with the Updated 12/20/2018 133 architectural style of the principal structure. Materials used for and design of decorative details shall be modern reproductions, which create the same effect.~~

~~(7) Techniques utilized in the rehabilitation of existing exterior surfaces shall be sympathetic to the surface materials. Sandblasting of any exterior surfaces shall require Planning Commission approval.~~

~~(8) The rearrangement of interior structural elements, including load bearing walls, columns, joists, girders, trusses, rafters, or lintels, shall not be allowed unless the plan for such rearrangement is accompanied by a certificate from a licensed architect or engineer that such rearrangement is not likely to result in structural damage.~~

~~(p) Standards For Alteration.~~

~~(1) Every reasonable effort shall be made to use the property for its originally intended purpose or to provide a compatible use requiring minimal alteration.~~

~~(2) Each property shall be recognized as a product of its own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.~~

~~(3) Deteriorated architectural features shall be repaired rather than replaced whenever possible, substantiated by historic, physical or pictorial evidence.~~

~~(4) The gentlest means possible shall be used to clean the property's surface if necessary. Sandblasting and other cleaning methods that will damage the historic building material are prohibited unless specifically approved by the Planning Commission.~~

~~(5) Archaeological resources affected by or adjacent to any alteration shall be protected and preserved.~~

- (6) Contemporary design for alteration to a property shall not be discouraged when such alteration does not destroy significant, historical, architectural or cultural material and character of the property, its environment and surrounding contributing properties.
- (7) Whenever possible, a new addition or alteration shall be so accomplished so that its future removal will not impair the essential form and integrity of the structure.
- (8) Appurtenances of a structure such as walls, fences and masses shall be in keeping with the environment and form inclusive enclosures along a street to insure visual compatibility with the adjacent, visually related structures and open spaces.
- (9) Materials utilized in exterior renovations, additions and construction of accessory or new principle structures shall either match the appearance of that used in construction of the original buildings or shall be modern construction materials which create the same effect and shall not be a cosmetic treatment which simulates original fabric. Decorative detail items such as chimneys, gutters, downspouts, gables, soffits, hardware, fences, light fixtures, walks, signs and shutters shall be compatible with the architectural style of the principal structure.
- (10) In passing upon appropriateness, the Planning Commission shall consider, in addition to any other pertinent factor, the architectural characteristics typical of structures in the District or Listed Property, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the architectural feature involved and its relation to the architectural features of other contributing properties in the immediate neighborhood.
- (g) Standards for New Construction.**
- (1) New structures should look new, reflecting contemporary design standards while using contemporary design elements that relate to existing contributing properties surrounding the new structure. Building height, width, mass and proportion affect the degree of compatibility between the old and the new.
- (2) Physical size and scale shall be compatible to existing contributing properties without overwhelming them.
- (3) The proportion of openings, width and height of windows, doors and entries, shall be visually compatible with adjacent contributing properties and open space.
- (4) The rhythm or relationship of solid spaces to voids (i.e., walls to windows and doors), in the Façade of a structure shall be visually compatible with adjacent contributing properties and open spaces in its environment.

- (5) ~~The rhythm of spacing, the relationship of a structure to the open space between it and adjoining structures, shall respect the surrounding environment.~~
- (6) ~~The rhythm of projections, the relationship of entrances, porches and other projections to sidewalks or streets, shall be guided by the streetscape provided by adjacent and visually related structures and open spaces.~~
- (7) ~~The choice of material, texture and color for the Façade of the structure should relate attractively to and be tempered Updated 12/20/2018 135 by the predominant material, texture and color of adjacent and visually related structures.~~
- (8) ~~Appurtenances of a structure such as walls, fences and masses shall be in keeping with the environment and form inclusive enclosures along a street to insure visual compatibility with the adjacent, visually related structures and open spaces.~~
- (9) ~~Preservation and allocation of appropriate green spaces shall be encouraged and respective of the rhythm or relationship of solid spaces to voids.~~
- (10) ~~Scale, the size and mass of structures in relation to open spaces, openings and projections, shall be compatible with adjacent, visually related structures and open spaces.~~
- (11) ~~A structure that has frontage on more than one street or alley resulting in multiple Façades shall require application of compatibility standards to each Façade.~~
- (12) ~~The Planning Commission shall consider, in addition to any other pertinent factor, the architectural characteristics typical of structures in the listed property or district, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the architectural feature involved and its relation to the architectural features of other structures in the immediate neighborhood.~~
- (r) Standards for Site Improvements.**
- (1) ~~Traditional colors and combinations of those colors that are both identified with the origin or the era in which the structure or property was originally built shall be encouraged for exteriors for all new structures to be built, and reconstruction, remodeling and exterior maintenance or existing structures within the historic district.~~
- (2) ~~Landscaping, parking, utility or service areas, driveways, walkways and similar improvements should be compatible to each other and to the subject building or structure as well as to adjacent contributing properties, open spaces, green spaces and the overall environment.~~

~~(3) Fences of wrought iron, stone or wood are encouraged. Privacy fence shall not exceed six (6) feet in height and shall generally be restricted to side and rear yards. Box, chicken wire, chain link and wire fences shall not be allowed.~~

~~(4) Signs shall be in keeping with the character of the adjacent environment.~~

~~(5) Portable structures, sheds, yard barns, kennel, or any accessory out buildings should be unobtrusive and compatible with existing structures and neighboring properties.~~

~~(e) . The applicant has submitted a rescue plan that mitigates any adverse effects of the proposed removal upon the property, the streetscape, and the historic district through:~~

~~i. New construction that is consistent with the Architectural Design Standards and which contributes to the architectural or historic integrity of the historic district.~~

~~ii. Exterior rehabilitation or restoration of the remaining structure that is consistent with the architectural design standards and which contributes to the architectural or historic integrity of the streetscape.~~

~~iii. Landscaping the parcel consistent with the Architectural Design Standards, providing for its care as common space for the benefit of the general public and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.~~

~~iv. Posting a financial guarantee with the Zoning Administrator sufficient to insure completion of the reuse plan or has requested and received a waiver of these requirements from the Planning Commission.~~

~~v. If no alternatives or mitigation is possible and the undertaking's benefits in relation to the significance of the property justify demolition as an acceptable loss, the Planning Commission may consider other appropriate reuse plans.~~

~~C. If seeking to demolish an entire structure or major portion thereof, the applicant shall also submit with the application, definite plans for reuse of the site, financial guarantee for the new project, a time frame for project initiation and completion and an assessment of the effect such plans will have on the character and integrity of the listed property or district.~~

~~1. The Planning Commission will be guided in the decision thereon by balancing the historic, architectural and cultural value of the structure or architectural feature and the purposes of this Section and of the Section pertinent to the subject property against applicant's~~

~~proof of any unusual and compelling circumstances or substantial economic hardship in retaining the structure or architectural feature and the merit of the replacement project.~~

- ~~2. Upon the Planning Commission's determination that any such structure or architectural feature is not historically or architecturally significant or otherwise worthy of preservation, a certificate of appropriateness will be issued. The applicant may then apply for and be issued a demolition permit.~~

~~(6) CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP.~~

~~All of the following criteria shall be considered by all applicants and forwarded to Planning Commission to determine existence of a substantial economic hardship:~~

- ~~a. Denial of a certificate will result in a substantial reduction in the economic value of the property.~~
- ~~b. The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and approved structures in the historic district as verified by a certified architect or engineer.~~
- ~~c. No reasonable alternative exists consistent with the architectural standards and guidelines for the property.~~

~~(7) CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES.~~

~~All of the following criteria shall be considered by all applicants and forwarded to Planning Commission to determine existence of unusual and compelling circumstances:~~

- ~~(1) The property has little or no historical and architectural significance.~~
- ~~(2) The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.~~
- ~~(3) No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.~~

~~(p) DEMOLITION BY NEGLECT.~~

- ~~(1) Demolition by neglect shall mean any failure in the maintenance and repair of any site or structure within the Historic District, which results in any of the following conditions:~~

- ~~A. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or~~
- ~~B. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.~~

- ~~(2) Demolition by neglect is prohibited. In the event that the Planning Commission finds a situation that may be classified as demolition by neglect,~~

the Planning Commission shall notify the Zoning Administrator to proceed with the notice requirements and enforcement procedures set forth in this code.

(q) DEMOLITION WITHOUT APPROVAL.

- a. ~~If any party proceeds to remove a significant principal structure prior to the issuance of an approved certificate of appropriateness, a mitigation fee equal to ten (10) percent of the estimated demolition cost as determined by the City shall be levied for each day after notification of said violation until said party files a rescue plan and a performance bond with the Zoning Administrator.~~

(q) Emergency Measures. Nothing in this section shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Chief Building Official, Fire Chief, or similar qualified official shall certify that the reconstruction, alteration, restoration, or demolition is required by public safety because of unsafe or dangerous conditions.

(r) SIGNS.

- a. ~~The sign regulations of the underlying zoning districts shall apply to a historic district.~~
- b. ~~Temporary signs displayed as window signs under Section 749.05(i) of the Codified Ordinances are permitted and no certificate of appropriateness is required, provided, they are only displayed for a maximum of twenty eight (28) days in a calendar year and do not exceed, in the aggregate, four (4) square feet in size.~~
- c. ~~All other short term or temporary signs are permitted and no certificate of appropriateness is required, provided, they are only displayed for a maximum of seven consecutive days and only one such sign may be displayed.~~
- d. ~~Signs shall be considered exterior modifications and shall be subject to the review of the Planning Commission~~
- e. ~~Signs shall be in keeping with the character of the adjacent environment. Excessive size and inappropriate placement results in visual clutter and shall be avoided. A good sign should relate harmoniously to exterior building material, texture and color; express a simple, clear message and contain a minimum number of words. Mechanical systems shall be screened by appropriate fence, mound, or planting and are generally prohibited from any front yard.~~
- f. ~~Signage, posters or advertisements placed in or on windows shall not exceed twenty five (25) percent of any window panel.~~

(s) Off-Street Parking and Loading.

- i. For permitted uses within the boundaries of a historic district, off-street parking and loading requirements shall be those set forth in this Zoning Code.

- ii. Off-street and off-site parking and loading spaces shall be considered modifications to the property on which they are located, potentially affecting the view of the streetscape and shall be subject to the review of the Planning Commission.

(r) Appeals.

- A. Any person or entity claiming to be injured or aggrieved by any final action of Zoning Administrator or Planning Commission shall have the right to an appeal the decision to the Appeals Board as established in section 1137.07 of the Troy Codified Ordinance.

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- (a) **Applicability.** An appeal may be made regarding any administrative decision made in the administration and enforcement of this Zoning Code, including administrative decisions by the Zoning Administrator or Planning Commission. An appeal may not be made to the Appeals Board when the Planning Commission is making a recommendation to City Council as part of a legislative action, such as a zoning text or map amendment.
- (b) **Initiation.** Appeals shall only be initiated by the applicant or an owner of property contiguous to the applicant's property, or an owner of property directly across any street or alley, from any order, decision, determination or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.
- (c) **Timeline for Appeals.** Appeals to the Appeals Board shall be filed within thirty (30) days from the decision, determination, or interpretation by the Zoning Administrator or Planning Commission, by filing a written notice of appeal with the Secretary of the Appeals Board. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Secretary of the Appeals Board shall forthwith transmit to the members of the Appeals Board all of the papers constituting the record upon which the decisions being appealed were based.
- (d) **Stay of Proceedings.** An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the Appeals Board, after notice of appeal has been filed with the Zoning Administrator, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Appeals Board, or by a court of competent jurisdiction on application.
- (e) **Hearing.** The Appeals Board shall select a reasonable time and place for the hearing of an appeal and give at least five (5) days written notice thereof to the owners of property contiguous to the applicant's property, and owners of property directly across any street or alley, as they shall appear on the notice of appeal. In addition, public notice of such hearings stating the time, place, date, and subject of the hearing, shall be published in a newspaper of general circulation in the City at least five (5) days prior to the date of the hearing. The appellant may appear and be heard at the hearing in person, by agent, or by attorney.
- (f) **Review Criteria.** A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this code.
- (g) **Decision.** The Appeals Board shall, hear and review the decision appealed from, and render their written decision on the appeal without unreasonable delay after the close of a hearing, and in all cases, within thirty (30) days after the close of the hearing.
- (h) **Records.** The Secretary of the Appeals Board shall maintain complete records of all actions of the Appeals Board with respect to appeals.

- (i) Authority. The Appeals Board shall have the authority to establish and adopt rules of procedures for the conduct of the hearing.

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HP-O HISTORIC PRESERVATION OVERLAY DISTRICTS

- (a) Historical Districts. The public interest calls for the preservation and protection of sites and structures within Troy city limits that have historical, architectural, archeological, and cultural values and serve as visible reminders of the history and heritage of this city, state, and nation. Well-preserved historic buildings and places, attractive residential areas, and orderly business districts add meaning and livability to a city. Hence, to accomplish this, it is necessary to provide a method whereby, with careful consideration for private property rights and only after a thorough analysis of the objectives to be achieved, certain procedures and regulations are established for changes made to significant buildings or neighborhoods.
- (b) Purpose. It is the intent of this Section to promote and protect the health, safety, cultural, economic, and general welfare of the public through:
- (1) The protection, enhancement and use of structures, sites and areas that are reminders of past eras and events and persons important in local, state, or national history;
 - (2) The preservation and enhancement of a city of varied architectural styles reflecting the distinct phases of the city's history;
 - (3) The preservation, restoration, or rehabilitation of historically significant districts, sites, buildings, structures, and objects that possess integrity of location design, setting, materials, workmanship, feeling, and association;
 - (4) The development and maintenance of appropriate settings and environment for the aforesaid sites and areas;
 - (5) The enhancement of Troy's attractiveness to visitors, tourism, and the support and stimulus to the economy thereby provided;
 - (6) The enhancement of property values, economic development, and neighborhood stability;
 - (7) The preservation, renovation, and adaptive reuse of the buildings within historic districts for economically productive uses;
 - (8) The consideration of the broadest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which Troy's historic districts may continue to exist as living, changing commercial and residential areas, not static environments;
 - (9) The protection of the property rights of the owners whose property is declared to be a Historic Structure, or is located in the area designated as a Troy Historic Preservation Overlay District;
 - (10) The encouragement of civic pride in the beauty and notable accomplishments of the past;

- (11) To this end, this section authorizes the adoption of overlay historic districts and to review and approve architectural modifications which affect the historic quality of such historic districts and sites.

(c) Designation of Overlay District.

- (1) The Planning Commission may recommend the adoption or modification of a historic district overlay on all eligible areas to the Troy City Council. The boundaries of each such district shall be indicated on the official zoning map.

(d) Historic District Definitions. The following definitions are only applicable in the Historic Preservation and Historic Landmark Districts.

- (1) Architectural Design Standards: The United States Secretary of the Interior's Standards for the Treatment of Historic Properties and any supplemental guidelines adopted by the City of Troy.
- (2) Adverse Effect: An occurrence or condition which includes, but is not limited to:
 - A. destruction or alteration of all or part of a property;
 - B. isolation from or alteration of a property's surrounding environment; or
 - C. neglect of a property resulting in its deterioration or destruction.
- (3) Applicant: Any person, or their representative, who applies for a building or demolition permit or for a certificate of appropriateness for construction, alteration or demolition of a Listed Property or structure.
- (4) Appurtenance: Any structure or object subordinate to a principal structure or site located within a Listed Property or Historic District and visible from the public right-of-way including, but not limited to, a bicycle rack, carriage house, display sign, fence, fixture, fountain, garage, outbuilding, pavilion, public artwork, statue, street furniture, shed, trellis, vending machine, or similar item.
- (5) Architectural Feature: The architectural treatment and general arrangement of such portion of the exterior of a property as is designed to be exposed to public view and/or the publicly accessible interior of any Listed Property which was listed in part, or in whole, because of the interior's historic or architectural significance.
- (6) Certificate of Appropriateness: A certificate issued by the Planning Commission or Zoning Administrator indicating that the proposed change, alteration or demolition of a historic building or structure within a historic site or district, is in accordance of the provisions of this chapter and the design guidelines.
- (7) Intrusion: An adverse effect which introduces a visual, audible, or atmospheric element which is out of character with the property or the district or alters its setting.
- (8) Landmark: Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, state or nation and which has been designated as a landmark pursuant to

the provisions of this Section.

- (9) **District:** The Historic Preservation or Historic Landmark Overlay area in which the property subject to the application is located or ten (10) or more structures and/or sites grouped together in a geographically defined area possessing a significant concentration, linkage or continuity of structures, appurtenances or sites that are united by past events, aesthetics, plan or physical development and where at least seventy-five (75) percent of the structures in which the property subject to the application is located.
- (10) **Economic Return:** A profit or increase in value from use or ownership of a site, structure, building, appurtenance or object that accrues from investment of capital or labor.
- (11) **Façade:** The face or front of a structure of any vertical surface thereof adjacent to a public way.
- (12) **Group:** Two or more structures, objects and/or sites of which are located in geographical proximity and are united by aesthetics, past events, plan or physical development.
- (13) **Guidelines:** The document adopted by the City of Troy that sets forth the architectural characteristics of a Listed Property or a Historic District area, or a specific property therein and provides design guidance for appropriate construction or alteration therein pursuant to the provisions of this Section. Guidelines and standards are intended to be consistent with each other.
- (14) **Inventory:** A systematic identification of properties having cultural, historical, architectural or archaeological significance compiled according to standards adopted by the City for evaluating property to be considered for designation as a Listed Property on the National Register of Historic Places.
- (15) **Listed Property:** Any structure, group, district or site so designated by the City pursuant to the provision of this Section.
- (16) **Preservation:** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features, rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within the scope of the project.
- (17) **Reconstruction:** The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.
- (18) **Rehabilitation:** The act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical cultural or architectural values.

- (19) **Restoration:** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within the scope of the project.
- (20) **Structure:** A building, object, monument, work of art, or work of engineering permanently affixed to the land. The term “structure” shall be construed as if followed by the words “or part thereof”. The distinction between “structure” and “building” should be noted. “Structure” is a broader term; “building” is a restricted form of “structure”.
- (21) **Substantial Economic Hardship:** A financial burden imposed upon an owner which when factually detailed and measured by standards and criteria of this Section is unduly excessive preventing a realization of an economic return upon the value of the property.
- (e) City of Troy Historic Preservation Overlay Design Manual.
The Planning Commission shall adopt a Historic Preservation Overlay Design Manual to provide a framework of design guidelines that the Planning Commission and staff shall use when reviewing an application for a Certificate of Appropriateness (COA). These design guidelines shall be used in addition to any applicable standards of the underlying base zoning district, standards found in this chapter, and shall consider the United States Secretary of Interior Standards for the Treatment of Historic Properties and the National Register of Historic Places. The Planning Commission shall hold a public hearing to adopt, establish, or alter the Design Manual.
- (f) “HP-O” Historic Preservation Overlay District
- (1) Purpose. The “HP-O” Historic Preservation Overlay District is an overlay district designed to preserve and protect groups of structures, sites, or areas eligible for or listed on the National Register of Historic Places in which the historic district consists of a large number of non-qualifying structures, undeveloped parcels, or contributing structures that have not undergone rehabilitation, and/or the planning district as a whole consists of a large number of nonqualifying structures which dominate the vista.
- (2) Nomination. Any area eligible may be nominated by a petition signed by owners representing seventy-five (75) percent of the parcels in the proposed area. The petition shall be in a form prescribed by the City of Troy and filed with the Clerk of the City Council who shall determine the validity of the petition and eligibility of the proposed area shall be determined. If the area is eligible and the petition is valid, an amendment to the official zoning map for all or part of the original proposed area in accordance with Section 1143.22(f)(3) of the Troy Codified Ordinances maybe proposed by the Planning Commission. Thereafter, the overlay district may be designated in the manner set forth in Section 1141.03 of this Zoning Code.

- (3) Boundaries. In determining the boundaries of a “HP-0” Historic Preservation Overlay District, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:
- A. The area must be eligible for or listed on the National Register of Historic Places.
 - B. The overlay district must be at least ten contiguous streetscapes. In no instance, shall the overlay district be less than four block faces.
 - C. Complete streetscapes or block faces may be included in the historic district so long as a portion of the streetscape is on or eligible for the National Register of Historic Places.
 - D. A structure, site, or area which is not eligible for or listed on the National Register may be included in the historic district if it is effectively enveloped by an eligible area under Section 1143.22(f)(1) of the Troy Codified Ordinances and by a topographic barrier such as an elevated highway, railroad, river, and/or bridge.

(g) “HL-O” Historic Landmark Overlay District

- (1) Purpose. The “HL-0” Historic Landmark Overlay District is an overlay district designed to preserve and protect single parcels or groups of structures, sites, or area eligible for or on the National Register of Historic Places, in which the historic district as a whole consists primarily of historically or architecturally significant structures, sites, or areas and/or contributing structures which have undergone rehabilitation or restoration.
- (2) Nomination. Any area eligible may be nominated by a petition signed by owners representing seventy-five (75) percent of the parcels in the proposed area. The petition shall be in a form prescribed by the City of Troy and filed with the Clerk of the City Council who shall determine the validity of the petition and eligibility of the proposed area shall be determined. If the area is eligible and the petition is valid, the Planning Commission may propose an amendment to the official zoning map for all or part of the original proposed area in accordance with Section 1143.22(f)(3) of this Zoning Code. Thereafter, the overlay district may be designated in the manner set forth in Sections 1141.03 of this Zoning Code.
- (3) Boundaries. In determining the boundaries of a “HL-0” Historic Landmark Overlay District, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:
 - A. The single parcels or groups of structures, sites, area or structure must be eligible for or listed on the National Register of Historic Places.
 - B. Complete streetscapes or block faces may be included in the historic district so long as a portion of the streetscape is on or eligible for the National Register of Historic Places.
 - C. A structure, site, or area which is not eligible for or listed on the National Register may be included in the historic district if it is effectively enveloped by an eligible area under Section 1143.22(g)(1) of the Troy Codified Ordinances and by a topographic barrier such as an elevated highway,

railroad, river, and/or bridge.

(h) Duties of the Zoning Administrator.

The Zoning Administrator shall recommend designation and/or modification of particular historic districts by adoption of controls on particular parcels through amendments to the official zoning map and shall review and act upon all applications for certificates of appropriateness for modifications.

(1) The duties of the Zoning Administrator shall be as follows:

- A. To conduct a survey of all properties as may be required to keep the survey up to date and to maintain a Listed Properties designation.
- B. To maintain the Troy Register of Historic Landmark Properties as defined by the Planning Commission which will contain the following information about each Listed Property:
 - 1. The roster number of the Listed Property.
 - 2. The description of the parcel of real estate, on which the Listed Property is located, as such appears on the tax duplicate.
 - 3. The street address or other applicable reference to the recognized location of the Listed Property.
 - 4. A site plan of the real estate on which the Listed Property is located showing the location thereon of the Listed Property.
 - 5. A minimum of two photographs of the Listed Property.
 - 6. A statement of the historical and/or architectural significance of the Listed Property.
 - 7. The owner's name, address and phone number.
- C. To nominate, in a manner consistent with Federal and State regulations, property of designation as Listed Property with approval of City Council, review nominations to the National Register of Historic Places and make recommendations to the Planning Commission, Mayor and City Council concerning such nominations.
- D. To advise the Planning Commission and City Council and to make recommendations as to the conservation of the City structures, sites, groups and districts and as to any alteration, rehabilitation, or demolition proposed for City-owned property, parks or rights-of-way listed in the Troy Register of Historic Landmark Properties as defined by the Planning Commission.
- E. To study the problems and determine the needs of the City in furthering the purpose of preservation.
- F. To determine what legislation or policy, if any, is necessary to further preservation, restoration, and development of historic resources and to recommend the same to the Planning Commission, Mayor or City Council,

as appropriate.

- G. To prepare, recommend for adoption and publish guidelines architectural design, alteration, new construction, site improvements and demolition or removal standards consistent with this Zoning Code.
- H. To consider applications for proposed construction, reconstruction, alteration or demolition of structures, architectural features or site elements of Listed Properties.
- I. To review and make recommendations to the Planning Commission on all applications for certificates of appropriateness for modifications.
- J. To initiate complaints of property maintenance code violations for properties in the historic district.
- K. To review minor modifications as established in section 1143.22 (k) of the Troy Codified Ordinances Classification of Review by Scope of Work Table.
- L. To forward major modifications applications to the Planning Commission as established in section 1143.22 (k) of the Troy Codified Ordinances Classification of Review by Scope of Work Table.

(i) Ordinary Maintenance.

- (1) Nothing in this section shall be construed to prevent ordinary maintenance of a structure or appurtenance of a structure in a listed property or district or repair of any exterior feature which does not involve a change in design, material, color, or outer appearance thereof.
- (2) The following items are considered ordinary repair and maintenance and do not require a Certificate of Appropriateness:
 - A. Minor nonabrasive cleaning that does not damage the historic material;
 - B. Minor repair of exterior surfaces such as caulking and masonry re-pointing; and
 - C. Replacement of gutters and downspouts with the same color and material as existing. This does not include replacement of fascia boards or soffits.
- (3) Neither the owner of, nor the person, nor an organization in charge of a structure within the district, shall by willful action or willful neglect fail to provide sufficient and reasonable care, maintenance and upkeep and permit that structure or landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce a detrimental effect upon the character of the landmark or structure in question, including, but not limited to:

- A. The deterioration of exterior walls or other vertical supports;
- B. The deterioration of roofs or other horizontal members;
- C. The deterioration of exterior chimneys;
- D. The deterioration or crumbling of exterior plaster or mortar;
- E. The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows and doors;
- F. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions; or
- G. Demolition by neglect as defined in Section 1143.22(p) of the Troy Codified Ordinances.

- (4) This provision shall be in addition to all other applicable code provisions. The Zoning Administrator shall gather evidence of a violation hereof and shall initiate appropriate action thereon.

(j) Certificate of Appropriateness (COA)

In addition to other permits required by this Zoning Code, a certificate of appropriateness (COA) is required prior to any construction, demolition, exterior modification or maintenance of exterior surfaces in any historic district unless specifically exempted by this zoning code in accordance with Section 1143.22(q) of the Troy Codified Ordinances.

- (1) Initiation. An application for a COA may be initiated by an owner of the property that is the subject of the application, or an agent authorized by the owner to file the application.

- (2) Application. Applications for a zoning certificate in a historic district shall also be considered an application for a COA and shall be submitted to the Zoning Administrator. Such applications shall contain information, which will enable the determination of compliance with the rehabilitation standards and land use controls set forth in this Section.

- A. Agents being authorized by the property owner shall provide a written notice of authorization with the application. If authorization is not provided, the application shall be deemed incomplete by the Zoning Administrator.

- B. The process of reviewing of a COA application shall not be initiated until the Zoning Administrator determines the application is complete and all the required fees established by City Council are paid.

C. Complete Application Determination

- i. An application shall be regarded as complete when all required information has been provided in a form, in such numbers, and in a manner (digital or hard copy) as established by the Zoning Administrator and made available to the public.
- ii. The Zoning Administrator shall make a determination of the completeness of an application within ten (10) business days of the application filing.

- iii. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
- iv. If an application is determined to be incomplete, the Zoning Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the Zoning Administrator determines that the application is complete.
- v. The city shall not be required to process an incomplete application, forward an incomplete application to the Planning Commission, or be subject to any required timelines of review for incomplete applications.
- vi. If the applicant fails to correct all deficiencies and submit a complete application within 60 days of the notice provided by the Zoning Administrator, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The Zoning Administrator may grant one (1) 60-day extension if just cause, as solely determined by the Zoning Administrator, is shown by the applicant.
- vii. No reconsideration of an incomplete application shall occur after expiration of the 60-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements of Section 1143.22(j) of the Troy Codified Ordinances, submit a new application, and submit a new filing fee.
- viii. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(k) Classification of Decision by Scope of Work Table

Classification of Decision by Scope of Work	Planning Staff Decision	Planning Commission Decision
1. Type of Work	Minor Alteration	Major Alteration
A. Architectural Work		
i. Installation or relocation of new pre-fabricated outbuilding or new structure 140 square feet or less.	✓	

ii. New structure greater than 140 square feet		✓
B. Demolition		
i. Significant principal structure		✓
ii. Non-significant principal structure		✓
iii. Significant accessory structure		✓
iv. Non-Significant accessory structure	✓	
C. Additions to principal structures		
i. Additions to substantial spaces such as rooms		✓
ii. Addition of front or side decks, porches, patios		✓
iii. Addition of rear patio, decks, or porches	✓	
D. Additions to accessory structures		
i. Additions to significant accessory structures		✓
ii. Additions to non-significant accessory structures	✓	
E. Windows and Doors		
i. Replacement of original windows and original street-facing doors on significant structures		✓
ii. Replacement of non-original and non-contributing windows and doors, and non-street facing doors	✓	
iii. Modification or installation of window and door openings facing the street		✓
iv. Modification or installation of window and door openings not facing the street	✓	
v. Modification, installation, or replacement of storm windows or storm doors	✓	
vi. Alteration or new construction of storefronts		✓
vii. Restoration of original window or door openings where doors and windows match original or existing	✓	
F. Roofs		
i. Alteration of roof material		✓

ii. Alteration of roof form (including alteration, removal, or construction of dormers)		✓
iii. Construction of new or modification of character-defining chimneys		✓
iv. Replacing roof shingles with the same material and design	✓	
G. Other Building Alterations		
i. Alterations or construction of building elements (including railings, stairs, landings, ramps and flooring)	✓	
ii. Alterations or construction of architectural details (including molding, brackets, or decorative woodwork)		✓
iii. Change in original cladding material or style		✓
iv. Painting of previously unpainted surface on a significant structure		✓
v. Painting of previously painted surface with the same color	✓	
vi. Changes to any non-significant outbuilding	✓	
vii. Character defining building elements or details without reconstruction		✓
vii. Non-character defining building elements or details without reconstruction	✓	
H. Signs		
i. Window signs	✓	
ii. Building signs (other than window signs)		✓
iii. Easel Board signs	✓	
iv. Incidental Signs (Less than 4 sq ft.)	✓	
I. Other		
i. Work items not listed here that are deemed by staff to be substantial in nature, precedent setting, not addressed by the local review criteria, or not in conformance with the criteria		✓

ii. Work items not listed here that are deemed by staff to be minor in nature, that do not alter the historic character of the building or streetscape.	✓	
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(l) Review by the Zoning Administrator.

- (1) The Zoning Administrator shall first review each application for compliance with all requirements of this Zoning Code.
- (2) The Zoning Administrator may distribute the application to other city departments and outside agencies to solicit comment on the proposed COA application.
- (3) After the application is determined to be complete, the Zoning Administrator shall act on the application:
 - A. The Zoning Administrator may approve or deny the application for minor modifications as per the Classification of Review by Scope of Work Table and Design Guidelines.
 - B. In all cases, the Zoning Administrator shall have the authority to forward an application to the Planning Commission.
 - C. Within 45 days, the Zoning Administrator shall forward the completed application to the Planning Commission for major modifications.

(m) Review by the Planning Commission.

- (1) Within 45 days after the COA application is forwarded to the Planning Commission, the Commission shall review the application for all major modifications as set forth in the Classification of Review by Scope of Work Table and any application that is forwarded by the Zoning Administrator.
- (2) The Planning Commission shall review the COA for conformance with the standards as set forth in this section of the Zoning Code and with the Design Manual and shall approve, approve with modifications, table, or deny the application for modifications.
- (3) If an application for modifications is approved, a certificate of appropriateness shall be issued by the Zoning Administrator and the applicant shall be notified of such action in writing within seven (7) days from date of approval.
- (4) Applications for modifications not approved by the Planning Commission may be appealed to the Board of Appeals unless withdrawn by the applicant. If appealed to the Board of Zoning Appeals, the Secretary to the Board of Zoning Appeals shall schedule the application for consideration at the earliest possible

date, once a complete application has been submitted.

- (5) Review Criteria. Decisions on a COA application shall be based on compliance with this chapter, any applicable standards of the underlying base zoning district, standards found in this chapter, and shall consider the United States Secretary of Interior Standards for the Treatment of Historic Properties and the National Register of Historic Places.

(6) -Determining the Significance of a Structure.

- A. When making decisions or recommendations about changes to structures in the HP-O District, the Planning Commission shall have the authority to make a determination of the historical significance of the structure based on this section.
- B. For structures that the Planning Commission find that are not historically significant, the board may relax or waive the standards or guidelines found in this chapter or Design Manual.
- C. The Planning Commission shall determine whether a structure or site is historically significant by meeting at least four (4) of the following criteria:
 - i. Value as a reminder of the cultural or archaeological heritage of the city, state, or nation;
 - ii. Location as a site of a significant local, state, or national event;
 - iii. Identification with a person or persons who significantly contributed to the development of the city, state, or nation;
 - iv. Identification as the work of a master builder, designer, or architect whose individual work has influenced the city, state, or nation;
 - v. Value as a building that is recognized for the quality of its architecture and that it retains sufficient elements showing such architectural significance;
 - vi. Example of an architectural style or period;
 - vii. Contribution to the historical nature of the overall site; and/or
 - viii. Character as a contributing element in the Historic Preservation Overlay District.

(n) Certificate of Appropriateness - Demolition, Removal or Moving of Structure.

- (1) General. The demolition of a historic or contributing property, or the moving of a structure, can have a significant impact on the character and quality of the historic district by removing an integral part of the historic area fabric; elimination of a part of City of Troy's history; and generally altering the nature of the district for the future. No person shall demolish any structure, or move a structure in a listed property or district until a Certificate of Appropriateness of such demolition or movement has been authorized by the Planning Commission or the Zoning Administrator and a permit is issued by the Zoning Administrator.

- D. No demolition, removal, or moving of structure proposal will be accepted:
- i. Without a mandatory pre-application meeting with Development Staff before the item is included on a Planning Commission Agenda;
 - ii. Without a detailed reuse plan; and
 - iii. Without a detailed plan of preserving any remaining exterior architectural features and/or historical features of the structure.
- E. The applicant shall submit a reuse plan that mitigates any adverse effects of the proposed removal upon the property, the streetscape, and the historic district through:
- i. New construction that is consistent with the Design Manual.
 - ii. Exterior rehabilitation or restoration of the remaining structure that is consistent with the Design Manual.
 - iii. Landscaping the parcel consistent with the Design Manual, providing for its care as common space for the benefit of the general public and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.
 - iv. Posting a financial guarantee in accordance with section 1143.22 (n) (3) of the Troy Codified Ordinance with the Zoning Administrator sufficient to insure completion of the reuse plan, or has requested and received a waiver of these requirements from the Planning Commission.
 - v. If no alternatives or mitigation is possible and the undertaking's benefits in relation to the significance of the property justify demolition as an acceptable loss, the Planning Commission may consider other appropriate reuse plans and or relax any of these requirements.
- F. Prior to acting on an application for demolition of a significant principal structure, the Planning Commission shall hold a public hearing within thirty (30) days after the submittal of a completed application.
- G. Owners of property contiguous to the applicant's property, and owners of property directly across any street or alley shall be notified of the time, date and place of the public hearing no later than five days before the public hearing.
- H. The Planning Commission may delay determination of the application for a period of no more than one-hundred and twenty days (120) days upon a finding that the property is of such architectural/historical significance that alternatives to demolition may be feasible. In the event that action upon such application is delayed, the Planning Commission may take necessary steps as it deems necessary to preserve the property. Such steps may include but shall not be limited to consultation with civic groups, public agencies and interested citizens.

(2) The Planning Commission shall only approve a COA for demolition if the application meets one of two conditions: 1) the application satisfies criterion A below; or, 2) the application satisfies criterion B and either C or D or both.

A. The Planning Commission finds that the structure subject to the application is not historically significant or non-qualifying per section 1143.22 (m)(6), the Planning Commission shall state the basis for such determination and shall be required to make a formal determination that the proposed demolition, removal of an architectural feature, or movement of a structure will not harm or reduce the historical significance of the site on which it is located or the historic district as a whole.

B. The cost of repairs exceeds the average of the appraised values of the building and there is no reasonable economic viability for the property as it exists or as it might be rehabilitated. Evidence of economic non-viability shall include:

- i. Two (2) estimates from licensed and bonded contractors depicting the cost of proposed demolition;
- ii. Two (2) appraised values of the property by two (2) licensed appraisers for the following conditions:
 - a. The property's current condition;
 - b. After completion of the proposed demolition;
 - c. After the rehabilitation of the existing property for continued use by providing sales for the previous six months for at least three comparable properties. If there are not sales for the previous six months of comparable properties, sales for the previous year of comparable properties may be used; and
 - d. If the property is an income-producing property, the valuation must include the rent scheduled and anticipated income after such rehabilitation, and the same for at least three comparable properties to substantiate the information provided for the property in question.
- iii. Two (2) estimates from licensed and bonded architects, developers, contractors, or appraisers experienced in historic rehabilitation as to the cost to rehabilitate the building to the point of which a principally permitted use or a reasonable profit can be realized from the property in underlying zoning district, including, but not limited to, bringing a structure up to code, so that it can be occupied, that is,

not necessarily its “highest and best use”, preferred use, or a restoration project.

- iv. The applicant has submitted evidence illustrating significant damage or structural issues pertaining to the structure that would present a specific infeasibility towards the use or occupation of the structure, as it currently exists, or an economic infeasibility towards the preservation, rehabilitation, restoration, or reconstruction of the structure.
- v. The property owner and/or applicant has actively marketed the property and structure for the purposes of maintenance, preservation, restoration, or reconstruction, and not demolition. The property owner and/or applicant has provided detailed documentation demonstrating marketing efforts such as Requests for Proposals (RFPs) or an MLS listing.
- vi. The property owner and/or applicant shall provide detailed information supporting this claim, such as:
 - a. Length of time the property was marketed or for sale and response to the marketing efforts;
 - b. Lack of interest in continued maintenance, preservation, restoration, or reconstruction of the property; and/or
 - c. Cost of rehabilitation of structure compared to estimated property value post-rehabilitation.
- vii. The applicant demonstrates that they sought out additional funding sources through local foundations, state, and/or federal grants, i.e. tax credits.
- viii. Demolition by neglect is prohibited. In the event that the Planning Commission finds a situation that may be classified as demolition by neglect, the Planning Commission shall notify the Zoning Administrator to proceed with the notice requirements and enforcement procedures set forth in this code. Demolition by neglect is further defined in section 1143.22 (p) of the Troy Codified Ordinance.

C. That the property proposed for demolition is inherently inconsistent with other properties in between two intersecting streets on the same block of the Historic District. For example, it may have been built at a time outside of the period of significance of the historic district.

- D. That the property proposed for demolition contains minimal features of architectural and/or historical significance due to any of the following:
- i. Significant loss of original architectural features.
 - ii. Significant loss of decorative or other architectural features that contribute to a historic structure and historic district.

- iii. Compounding alterations and changes to the structure that render original architecture and historic significance lost or indeterminable.
- iv. The structure contains no historic architectural features (i.e. modern buildings or modern additions to a historic structure).

(3) If the Planning Commission approves a COA for demolition of a principal structure, or movement of a principal structure, the applicant shall be subject to additional bonds or sureties as established below:

- A. Financial Guarantee Required. For demolitions, the applicant shall be required to submit a financial guarantee in a form acceptable to the city that will guarantee:
 - i. The safe demolition of the applicable structure;
 - ii. The approved reuse plan;
 - iii. Necessary protections to prevent damage to any adjacent properties;
 - iv. Clean-up of the site after demolition, and
 - v. Installation, upgrades, or repairs of any infrastructure improvements on the site that are necessary for future construction on the site per the approved plans.
- B. The guarantee shall be in such an amount as the Planning Commission determines to be reasonably necessary to complete the demolition of the structure, ensure the protection of surrounding properties, and ensure the clean-up of the site.
- C. The financial guarantee shall be an obligation for the faithful performance of any and all work approved by the Planning Commission, or its duly authorized representative, regarding any demolition and reconstruction project approved under this section.
- D. The financial guarantee shall contain the further condition that should the applicant fail to complete all work and improvements required to be done by the applicant within 12 months or an alternative timeframe approved by the Planning Commission, the city may, at its option, cause the demolition to be completed, all required work to be done, and necessary improvements constructed at the expense of the applicant.
- E. The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefore.
- F. The guarantee may take the form of a bond, cash deposit, or an irrevocable letter of credit as further outlined in this subsection.
- G. Guarantees shall be made payable to the City of Troy and be acceptable to staff and the city's legal counsel.
- H. The guarantee, or portion thereof, shall not be released until the Zoning

Administrator, or authorized representative, is satisfied that the demolition has been completed in conformance with the plans and specifications approved by the Planning Commission.

- I. The applicant shall be in default of the guarantee when one (1) of the following conditions exists:
- i. The demolition, as approved by the Planning Commission, has not taken place within the time period agreed on in the applicant's contract with the city, and the applicant has failed to establish reasonable cause for such delay to the satisfaction of the Planning Commission and has not received an extension of time.
 - ii. The applicant has not undertaken the demolition in accordance with the minimum standards specified by these regulations, and the applicant is unwilling to modify and upgrade said demolition and subsequent construction within a six-month time period in order to be in compliance with the provisions of these regulations.

(6) Types of Guarantees.

A. Bond.

- i. A bond in the amount determined in accordance with this section shall be filed with the City of Troy.
- ii. The bond may be in the form of a surety bond or a cash bond of the kind approved by law for securing deposits of public money.
- iii. The bond shall be executed by the applicant as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio.

B. Irrevocable Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the Planning Commission. This letter shall be deposited with the city, and shall certify the following:

- i. The creditor guarantees funds in an amount equal to the cost, as estimated in accordance with this subsection. In the case of failure on the part of the applicant to complete the specified demolition within the required time period, the creditor shall pay to the city immediately and without further action such funds as are necessary to finance the completion of that demolition, up to the limit of credit stated in the letter.
- ii. This irrevocable letter of credit may not be withdrawn or reduced in amount until released by Planning Commission.

C. Cash.

- i. The applicant shall provide a certified check for the amount of the guarantee, payable to the City of Troy.
- ii. When the demolition is complete, the city shall issue a check for the released amount based on this sub-section.

- iii. The city shall not be responsible for paying interest for the period of time the city retains the guarantee.

D. Liability Insurance.

- i. Any applicant who receives an approved COA for the demolition of a structure or the moving of a structure shall, before any work begins, obtain and maintain in full force and effect, at all times during the period of demolition or moving, commercial general liability and automobile liability insurance coverage against claims for injuries to persons or damages to property arising out of the acts or omission of the applicant, or any of his or her contractors, subcontractors, agents, or employees in connection with the demolition or moving of the structure.
- ii. At a minimum, the following is required for all liability insurance policies:
 - a. The policies shall protect the city from any liability for any accident, negligence, failure of the applicant or contractors, or any other liability whatsoever, relating to the construction or maintenance of the subdivision and related public improvements.
 - b. The policies shall be effective during all demolition or moving activities related to the approved COA.
 - c. The policies shall cover, or be endorsed to cover the city, its officials and employees as additional insureds. The coverage shall be primary and non-contributing as respects the city, its officials and employees.
 - d. The commercial general liability coverage shall be on the "occurrence" basis with limits acceptable to the city's Law Director.
 - e. The automobile liability coverage shall be for "any auto" with limits acceptable to the city's legal counsel.
 - f. Insurance is to be placed with insurance companies authorized to do insurance with a minimum AM Best rating of A: VII, unless otherwise acceptable to the city's Law Director.
 - g. An applicant who receives an approved COA for demolition shall provide the City's Law Director with documentation, including but not limited to certificates(s) of insurance, verifying compliance with the specifications herein. The City reserves the right to require complete copies of insurance policies, including endorsements, required by these specifications, at any time.

(o) Time Limit.

- A. A certificate of appropriateness shall remain valid for a period of six (6) months from the date of issuance. If such work is delayed for a period exceeding six (6) months, the certificate of appropriateness shall automatically expire and any other

zoning permits issued in conjunction with it shall become void.

- B. The Planning Commission may grant extensions for major modifications, but shall not exceed, two (2) extensions of the period of validity of a certificate of appropriateness, not to exceed six (6) months each, if such request by the owner is at least ten (10) days in advance of the expiration of the certificate of appropriateness. A request for any extension shall set forth reasons for the delay.
- C. The Zoning Administrator may grant extensions for minor modifications, but shall not exceed, two (2) extensions of the period of validity of a certificate of appropriateness, not to exceed six (6) months each, if such request by the owner is at least ten (10) days in advance of the expiration of the certificate of appropriateness. A request for any extension shall set forth reasons for the delay.

(p) DEMOLITION BY NEGLECT.

(1) Demolition by neglect shall mean any failure in the maintenance and repair of any site or structure within the Historic District, which results in any of the following conditions:

- A. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
- B. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

(2) Demolition by neglect is prohibited. In the event that the Planning Commission finds a situation that may be classified as demolition by neglect, the Planning Commission shall notify the Zoning Administrator to proceed with the notice requirements and enforcement procedures set forth in this code.

(q) Emergency Measures. Nothing in this section shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Chief Building Official, Fire Chief, or similar qualified official shall certify that the reconstruction, alteration, restoration, or demolition is required by public safety because of unsafe or dangerous conditions.

(s) Off-Street Parking and Loading.

- i. For permitted uses within the boundaries of a historic district, off-street parking and loading requirements shall be those set forth in this Zoning Code.
- ii. Off-street and off-site parking and loading spaces shall be considered modifications to the property on which they are located, potentially affecting

the view of the streetscape and shall be subject to the review of the Planning Commission.

(r) Appeals.

- A. Any person or entity claiming to be injured or aggrieved by any final action of Zoning Administrator or Planning Commission shall have the right to an appeal the decision to the Appeals Board as established in section 1137.07 of the Troy Codified Ordinance.

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